

NOV 16 2010

Mr. Victor M. Gaglio
Senior Vice President, Operations
NiSource Gas Transmission and Storage
1700 MacCorkle Avenue, SE
Charleston, WV 25301

Re: CPF No. 3-2009-1018

Dear Mr. Gaglio:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$120,000, acknowledges your payment of the penalty by wire transfer, and finds that NiSource Gas Transmission has completed the actions specified in the Notice to comply with the pipeline safety regulations. This enforcement action is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chad Zamarin, Director, Integrity Management, NiSource Gas Transmission
and Storage, 5151 San Felipe, Suite 2500, Houston, TX 77056
Mr. David Barrett, Director, Central Region, PHMSA (*by email*)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0041 0640]

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

)
In the Matter of)

)
NiSource Gas Transmission and Storage,)

CPF No. 3-2009-1018

)
Respondent.)
_____)

FINAL ORDER

On July 17-21 and August 1-3, 2006, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), the Ohio Public Utilities Commission, the New York Department of Public Service, and the West Virginia Public Service Commission inspected the integrity management plan and procedures of NiSource Gas Transmission and Storage (NiSource or Respondent) in Charleston, West Virginia. NiSource operates over 15,000 miles of natural gas pipelines including Columbia Gas Transmission, Columbia Gulf Transmission, Crossroads Pipeline, and Granite State Gas Transmission operations.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated August 20, 2009, 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 NiSource had committed various violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$120,000 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

NiSource responded to the Notice by letter dated September 24, 2009 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$120,000, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDINGS OF VIOLATION

In its Response, NiSource did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1A: The Notice alleged that Respondent violated 49 C.F.R. § 192.907(a), which states in relevant part:

§ 192.907(a) What must an operator do to implement this subpart?

(a) General. No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in § 192.911 and that addresses the risks on each covered transmission pipeline segment.

The Notice alleged that Respondent violated 49 C.F.R. § 192.907(a) by failing to follow its written integrity management program including all elements specified in § 192.911. Section 192.911(a) requires that the integrity management program include an identification of all high consequence areas (HCAs). Specifically, the Notice alleged that NiSource did not identify all the HCA locations along its 12-inch UM10 (Ashland, KY) pipeline system by the December 17, 2004, deadline. Three additional HCAs were identified at the time of the inspection in 2006. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.907(a) by failing to follow its written integrity management program and identify all HCAs by the December 17, 2004, deadline.

Item 2A: The Notice alleged that Respondent violated 49 C.F.R. § 192.911, which states in relevant part:

§ 192.911 What are the elements of an integrity management program?

.... The initial [integrity management] program framework and subsequent program must, at minimum, contain the following elements....

(b) A baseline assessment plan meeting the requirements of § 192.919 and § 192.921.

The Notice alleged that Respondent violated 49 C.F.R. § 192.911 by failing to have a baseline assessment plan meeting the requirements of § 192.921. Section 192.921(a) requires that an operator select the method or methods of assessment best suited to address the threats identified to the covered segment. Specifically, the Notice alleged that NiSource's baseline assessment plan did not include assessment methods that address stress corrosion cracking (SCC) despite having identified several covered pipeline segments that met the ASME B31.8S criteria for SCC. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.911 by failing to have a baseline assessment plan that included assessment methods suited to address all identified threats in accordance with the requirements of § 192.921.

Item 3A: The Notice alleged that Respondent violated 49 C.F.R. § 192.933(a), which states in relevant part:

§ 192.933 What actions must be taken to address integrity issues?

(a) General requirements. An operator must take prompt action to address all anomalous conditions the operator discovers through the integrity assessment. In addressing all conditions, an operator must evaluate all anomalous conditions and remediate those that could reduce a pipeline's integrity....

(1) Temporary pressure reduction. If an operator is unable to respond within the time limits for certain conditions specified in this section, the operator must temporarily reduce the operating pressure of the pipeline or take other action that ensures the safety of the covered segment.... An operator must notify PHMSA in accordance with § 192.949 if it cannot meet the schedule for evaluation and remediation required under paragraph (c) of this section and cannot provide safety through temporary reduction in operating pressure or other action....

The Notice alleged that Respondent violated 49 C.F.R. § 192.933(a) by failing to either take prompt action to address all anomalous conditions discovered through integrity assessments or reduce operating pressure. Specifically, the Notice alleged that on two occasions NiSource did not immediately remediate conditions that required immediate repair under § 192.933(d), did not reduce the operating pressure or take other action to ensure the safety of the covered segment, and did not notify PHMSA that it could not meet the schedule for remediation or take other action to provide safety. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.933(a) by failing to either take prompt action to address all anomalous conditions discovered through integrity assessments or reduce operating pressure.

Item 3B: The Notice alleged that Respondent violated 49 C.F.R. § 192.933(b), which states in relevant part:

§ 192.933 What actions must be taken to address integrity issues?

(a)

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

The Notice alleged that Respondent violated 49 C.F.R. § 192.933(b) by failing to promptly assess available information and make a determination that a condition was a potential threat to the integrity of the pipeline. Specifically, the Notice alleged that NiSource did not promptly determine that there were conditions requiring immediate repair following the June 29, 2004, internal inspection of the VB LOOP line even though the final inspection report was made available to NiSource on August 8, 2004, and contained sufficient information to make that determination. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.933(b) by failing to promptly assess available information and make a determination that a condition was a potential threat to the integrity of the pipeline.

Item 4A: The Notice alleged that Respondent violated 49 C.F.R. § 192.947, which states:

§ 192.947 What records must an operator keep?

An operator must maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of [Subpart O]. At minimum, an operator must maintain the following records for review during an inspection.

(a)

(d) Documents to support any decision, analysis and process developed and used to implement and evaluate each element of the baseline assessment plan and integrity management program. Documents include those developed and used in support of any identification, calculation, amendment, modification, justification, deviation and determination made, and any action taken to implement and evaluate any of the program elements.

The Notice alleged that Respondent violated 49 C.F.R. § 192.947 by failing to maintain records that demonstrate compliance with the requirements of the Gas Transmission Pipeline Integrity Management regulations for the useful life of the pipeline. Specifically, the Notice alleged that NiSource could not produce the dig/repair reports for two immediate repair conditions that were reported to have been addressed in November 2004. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.947 by failing to maintain records that demonstrate compliance with the requirements of the Gas Transmission Pipeline Integrity Management regulations for the useful life of the pipeline.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$120,000 for the violations cited above.

Item 1A: The Notice proposed a civil penalty of \$37,900 for Respondent's violation of 49 C.F.R. § 192.907(a), for failing to follow its written integrity management program by the December 17, 2004, deadline. NiSource neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$37,900 for violation of 49 C.F.R. § 192.907(a).

Item 2A: The Notice proposed a civil penalty of \$23,200 for Respondent's violation of 49 C.F.R. § 192.911, for failing to have a baseline assessment plan meeting the requirements of § 192.921. NiSource neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$23,200 for violation of 49 C.F.R. § 192.911.

Item 3A: The Notice proposed a civil penalty of \$23,200 for Respondent's violation of 49 C.F.R. § 192.933(a), for failing to either take prompt action to address all anomalous conditions discovered through integrity assessments or reduce operating pressure. NiSource neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$23,200 for violation of 49 C.F.R. § 192.933(a).

Item 3B: The Notice proposed a civil penalty of \$23,200 for Respondent's violation of 49 C.F.R. § 192.933(b), for failing to determine that a condition was a potential threat to the integrity of the pipeline. NiSource neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$23,200 for violation of 49 C.F.R. § 192.933(b).

Item 4A: The Notice proposed a civil penalty of \$12,500 for Respondent's violation of 49 C.F.R. § 192.947, for failing to maintain records that demonstrate compliance with the requirements of the Gas Transmission Pipeline Integrity Management regulations for the useful life of the pipeline. NiSource neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$12,500 for violation of 49 C.F.R. § 192.947.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$120,000**, which amount has already been paid by Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2A in the Notice for violation of 49 C.F.R. § 192.921(a). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

With respect to the violation of § 192.921(a) (**Item 2A**), NiSource provided PHMSA with documentation substantiating that it revised its baseline assessment plan to include appropriate assessment methods to address stress corrosion cracking (SCC). NiSource submitted a schedule for completion of the integrity assessments for all pipeline segments that meet the B31.8S criteria for SCC. NiSource maintained documentation of the safety improvement costs associated with the compliance order and submitted the total to the Director, Central Region, PHMSA.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued