

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 5, 2013

Mr. Rick Petersen
President
Jayhawk Pipeline
1391 Iron Horse Road
McPherson, KS 67460

CPF 3-2013-5011

Dear Mr. Petersen:

On December 5-8, 2011, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code conducted an inspection of your Integrity Management Program (IMP) and procedures at your facilities in McPherson, KS.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §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).

Jayhawk did not follow their process for conducting periodic evaluation of pipeline integrity, including review of integrity assessment results and information analysis for five (5) of their liquid pipeline segments.

Jayhawk uses the form “Individual Line Review Form” to integrate all assessment information. However, five (5) individual line segments were missing the assessment evaluation form. The five (5) line segments that did not have the review form are as follows:

Jayhawk Meade to Chase
Jayhawk Valley Center to McPherson
NCRA Conway 8” Gas
NCRA Conway 8” Nat Gasoline
NCRA Conway 6” Pentane

2. §195.452 Pipeline integrity management in high consequence areas.

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

(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.

Jayhawk/NCRA did not perform a leak detection capability evaluation on any of the Jayhawk, KAW, or NCRA systems. An evaluation is required to determine the leak detection system capability, and if modifications are necessary. This was identified in the last IMP inspection.

3. §195.452 Pipeline integrity management in high consequence areas.

(i) What preventive and mitigative measures must an operator take to protect the

high consequence area?

(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.

Jayhawk did not conduct an EFRD analysis of the KAW pipeline system.

The KAW system and the El Dorado to Halstead line were brought into the IMP program in 2009 subsequent to the last PHMSA IMP inspection. The El Dorado to Halstead segment was evaluated and results concluded that no EFRDs were needed. However, the KAW system was overlooked and was not evaluated.

4. §195.452 Pipeline integrity management in high consequence areas.

(I) What records must be kept?

(1) An operator must maintain for review during an inspection:

(ii) Documents to support the decisions and analyses, including any modifications, justifications, variances, deviations and determinations made, and actions taken, to implement and evaluate each element of the integrity management program listed in paragraph (f) of this section.

Jayhawk did not keep records or properly fill out the forms per their IMP Plan for multiple IMP processes. The following deficient or missing records were noted:

a) Jayhawk had insufficient records showing that new HCA's were identified and confirmed since 2006. Jayhawk's process for identifying newly Identified HCA's clearly require that this review be documented. Review of the Jayhawk's Annual Integrity Management Review records which is used to document the HCA review was last completed in 2006. Jayhawk personnel were able to provide internal email correspondence showing that the company was actively trying to identify new HCA's through the use of NPMS from 2010 to present; however, this is not consistent with the record keeping process.

- b) Records were not available that documented the Communication of Evaluation for 2010. Jayhawk documents the Communication of Evaluation meetings through sign-up sheets at their annual IMP committee meeting. However, the sign-up sheet and agenda for the 2010 meeting was missing.
- c) Records that indicated that a baseline assessment was done on the KAW system were not available. Jayhawk utilizes a Pipe Summary Assessment E Form to evaluate and document what baseline assessment is going to be performed. No record of that form could be found that showed that the assessment was conducted on the KAW system.
- d) Jayhawk could not produce any record that showed that a continual assessment and evaluation was conducted on the NCRA system. They could not find a completed record for the NCRA system for 2008 and 2009.
- e) Jayhawk could not produce any records showing that an analysis was conducted to determine the reassessment interval. Jayhawk/NCRA personnel indicated that the analysis was documented on the Mitigation Information Analysis, and Reassessment Interval Review documentation. However, the documentation presented to PHMSA during the inspection found that the forms were not filled out for the NCRA, KAW, and Jayhawk systems.
- f) Jayhawk did not have records of any effectiveness reviews for the NCRA system. Jayhawk personnel conduct annual reviews to determine the effectiveness of the IMP program. Jayhawk personnel document the reviews through typed agendas and their IMP Audit and Industry Benchmarking forms. No forms could be produced to show that the NCRA system was evaluated during these meetings.
- g) Jayhawk did not have records of any evaluation of performance measures for either the NCRA or Jayhawk systems. Jayhawk personnel indicated that the performance measures were typically documented on the Annual Integrity Form. However, they were not able to provide any of those forms from 2006 to current.
- h) Jayhawk did not document the mitigative review form for the Roth to Sullivan line segment. Per Section 7 (Preventative and Mitigative Measures of the IMP program) of Jayhawk/NCRA's IMP manual, a mitigative review form should have been filled out for the Roth to Sullivan line segment. Company personnel could not find any follow-up documentation after being risk ranked in April 2010.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum

penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$82,400 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 29,300
2	\$ 33,100
4	\$ 20,000

Proposed Compliance Order

With respect to item(s) 2, 3, and 4 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Jayhawk Pipeline. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 3-2013-5011** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

David Barrett
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Jayhawk Pipeline a Compliance Order incorporating the following remedial requirements to ensure the compliance of Jayhawk Pipeline with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to Jayhawk not performing a leak detection capability analysis on any of the pipeline segments, Jayhawk/NCRA must conduct the leak detection capability analysis on the Jayhawk, KAW, and NCRA systems.
2. In regard to Item Number 3 of the Notice pertaining to Jayhawk not conducting an EFRD analysis of the KAW system. Jayhawk must perform the EFRD analysis on the KAW pipeline system.
3. In regard to Item 4 of the Notice pertaining to Jayhawk not maintaining numerous required Integrity Management documents and records, a document management and records retention system must be established within 90 days of the Final Order. Submit the proposed document management process to the Region Director within 30 days of the Final order for the Director's approval.
3. The evaluations required in 1 and 2 of this Proposed Compliance Order must be completed within 60 days of the date of the Final Order. Submit to the Region Director documentation of the evaluations within 30 days of completion.
4. It is requested (not mandated) that Jayhawk Pipeline maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to David Barrett, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs 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.