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April 1, 2021

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
VIA EMAIL: GREGORY.OCHS@DOT.GOV

Gregory Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 480
Kansas City, MO 64106

Re: **Request for Hearing
In the Matter of Hess Corporation
NOPV CPF 3-2021-5008**

Dear Mr. Ochs:

On behalf of Hess North Dakota Pipelines LLC (“Hess” or the “Company”), an affiliate of Hess Corporation,¹ we respectfully request a hearing on the above-captioned Notice of Proposed Violation (“NOPV”). The NOPV was issued by the Pipeline and Hazardous Materials Safety Administration to Hess on March 2, 2021. Enclosed is a Request for Hearing, Statement of Issues, and Written Response.

Hess would welcome the opportunity to discuss the issues raised in the Request for Hearing on an informal basis with PHMSA, as Hess believes this would be a practical and efficient way to work cooperatively with PHMSA in advance of a hearing. In the meantime, Hess is filing this Request for Hearing to preserve its procedural rights to contest the NOPV in the event that Hess and PHMSA cannot resolve the issues through informal discussion. Hess will be reaching out to you separately to request an informal meeting. To permit time for an informal meeting, Hess respectfully requests that PHMSA delay scheduling the hearing for 90 days with the

¹ The NOPV was addressed to Hess Corporation. However, the entity that owns and operates the pipeline system that is the subject of the NOPV is Hess North Dakota Pipelines LLC, an affiliate of Hess Corporation.

understanding that Hess may withdraw its request for hearing if the parties can reach satisfactory resolution of the issues in the interim.

Respectfully,

A handwritten signature in black ink, appearing to read "J. Scott Janoe". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott Janoe

Enclosures

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

	)	
In the Matter of	)	
	)	
Hess Corporation,	)	CPF No. 3-2021-5008
	)	
	)	<u>Request for Hearing</u>
Respondent.	)	
	)	

The Pipeline and Hazardous Materials Safety Administration (“PHMSA” or the “Agency”) issued the above-referenced Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (collectively, the NOPV) dated March 2, 2021 to Hess North Dakota Pipelines LLC (“Hess” or the “Company”), an affiliate of Hess Corporation.¹

Pursuant to 49 C.F.R. Parts 190.208 and 190.211, Hess respectfully requests an in person hearing on the Agency’s NOPV. Pursuant to 49 C.F.R. Part 190.208(b)(4) and the Agency’s correspondence dated March 2, 2021, and received on March 2, 2021, this request is timely. As required by 49 C.F.R. Part 190.211(b), this Request for Hearing includes a Statement of Issues (attached), which incorporates by reference a Written Response to the NOPV (attached). Pursuant to 49 C.F.R. Part 190.211(b), Hess will be represented by counsel at any hearing scheduled for this matter, which will include representatives of Hess and/or the Baker Botts law firm. Please be advised that at the hearing Hess intends to present materials, testimony, and other items relevant to the issues. *49 C.F.R. Part 190.211(e)*. Hess also hereby requests a copy of all materials in the PHMSA case files, as set forth under 49 C.F.R. Parts 190.208 and 190.209, that may be relevant to this matter and the issues raised in the NOPV and/or by this Request for Hearing (including case files or materials relied upon during the preparation of this action, CPF No. 3-2021-5008, and all other matters referenced in the NOPV or this Request for Hearing).

Hess believes that the parties could narrow, if not resolve, the issues in advance of a Hearing on this matter. For that reason, we would welcome an opportunity to meet with the relevant PHMSA officials from the Central Region before any Hearing is scheduled. At a minimum, that could help streamline any Hearing on this matter.

¹ The NOPV was addressed to Hess Corporation. However, the entity that owns and operates the pipeline system that is the subject of the NOPV is Hess North Dakota Pipelines LLC, an affiliate of Hess Corporation. Hess Corporation requests that the NOPV be amended to address the appropriate corporate entity.

Hess is committed to ensuring public safety and pipeline integrity. For that reason, the Company is filing this Request for Hearing to address the legal and factual issues raised in the NOPV. As set forth in the attached Statement of Issues and Written Response to NOPV, Hess respectfully requests that PHMSA withdraw Item 2 of the NOPV and the Proposed Compliance Order action associated with Item 2, amend the Proposed Compliance Order with respect to Items 4 and 6 of the NOPV, withdraw the Proposed Compliance Order action item associated with Item 7 of the NOPV, and reduce the Proposed Civil Penalty with respect to Items 5, 8 and 9 of the NOPV.

Respectfully Submitted,



Baker Botts LLP
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910 Louisiana Street
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(713) 229-1553

Hess North Dakota Pipelines LLC
1501 McKinney Street, 28th Floor
Houston, Texas 77010
713-496-4000

Date: April 1, 2021

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

	)	
In the Matter of	)	
	)	
Hess Corporation,	)	CPF No. 3-2021-5008
	)	
	)	<u>Statement of Issues</u>
Respondent.	)	
	)	

In connection with its Request for a Hearing and in accordance with the requirements of 40 C.F.R. Part 190.211(a), Hess North Dakota Pipelines LLC (“Hess” or the “Company”), an affiliate of Hess Corporation,¹ hereby provides the Statement of Issues that it intends to raise at the Hearing. The Statement of Issues hereby incorporates by reference the Written Response to the Notice of Probable Violation (“Response”).

Although Hess has requested a Hearing on the issues set forth in the Notice of Probable Violation, CPF 3-2021-5008 (“NOPV”), the Company has also requested that PHMSA delay such Hearing to allow the parties an opportunity confer and discuss the issues outlined below. If the parties are able to reach a resolution on some or all of the issues set forth below, Hess intends to withdraw its Request for a Hearing as to those issues.

Without admitting the facts and conclusions set forth in the NOPV, Hess intends to raise the following issues at a Hearing, if necessary:

1. Whether Item 2 of the NOPV and the associated action requested in the Proposed Compliance Order should be withdrawn.

The area of piping to which this Item applies is not subject to PHMSA jurisdiction under the in-plant piping system exception. The in-plant piping system ends downstream of this section of piping at the control device that is necessary to control the downstream jurisdictional pipeline’s pressure.

¹ The NOPV was addressed to Hess Corporation. However, the entity that owns and operates the pipeline system that is the subject of the NOPV is Hess North Dakota Pipelines LLC, an affiliate of Hess Corporation. Hess requests that the NOPV be amended to address the appropriate corporate entity.

2. Whether the Proposed Compliance Order associated with Items 4 and 6 of the NOPV should be amended to allow for an extension of time in which to complete the requested actions.

The requested actions in the Proposed Compliance Order associated with Items 4 and 6 of the NOPV require additional time in which to complete.

3. Whether the Proposed Compliance Order associated with Item 7 of the NOPV should be withdrawn as moot.

As further explained in the attached Response, the requested action associated with Item 7 in the Proposed Compliance Order of the NOPV is moot and should be withdrawn.

4. Whether the Proposed Civil Penalty should be significantly reduced.

As set forth in the attached Response, PHMSA should significantly reduce the Proposed Civil Penalty for Items 5, 8 and 9 to properly account for statutory and regulatory civil penalty factors of (1) nature, (2) gravity, (3) good faith, (4) history of prior offenses, and/or (5) other matters as justice may require.

These issues are more fully addressed in Hess's Response to the NOPV.

For all of the reasons identified above in the Statement of Issues and Response to the NOPV, and in consideration of other matters as justice may require, Hess respectfully requests that PHMSA withdraw Item 2 of the NOPV and the Proposed Compliance Order action associated with Item 2, amend the Proposed Compliance Order with respect to Items 4 and 6 of the NOPV, withdraw the Proposed Compliance Order proposed action item with respect to Item 7 of the NOPV, and reduce the Proposed Civil Penalty with respect to Items 5, 8 and 9 of the NOPV. In addition, Hess respectfully requests that PHMSA agree to delay the Hearing to allow the parties an opportunity to confer on the issues set forth above.

Respectfully Submitted,



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Date: April 1, 2021

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

In the Matter of	)	
	)	
Hess Corporation,	)	CPF No. 3-2021-5008
	)	
Respondent.	)	<u>Response to Notice of Probable</u>
_____	)	<u>Violation</u>

On March 2, 2021, the Director of the Office of Pipeline Safety for the Central Region of the Pipeline and Hazardous Materials Safety Administration (“PHMSA” or the “Agency”) issued a Notice of Probable Violation (“NOPV”), which included a Proposed Civil Penalty and Proposed Compliance Order, to Hess North Dakota Pipelines LLC (“Hess” or the “Company”), an affiliate of Hess Corporation.¹ The NOPV contained ten alleged violations of the federal pipeline safety regulations. Items 1, 3 and 10 of the NOPV were Warning Items and are not contested here. Item 2 of the NOPV is associated with a proposed Compliance Order requiring one requested action. Item 4 of the NOPV is associated with a proposed Compliance Order requiring one requested action. Item 5 of the NOPV is associated with a proposed civil penalty of \$86,200. Item 6 of the NOPV is associated with a proposed Compliance Order requiring one requested action. Item 7 of the NOPV is associated with a proposed Compliance Order requiring one requested action. Item 8 of the NOPV is associated with a proposed civil penalty of \$19,000. Item 9 of the NOPV is associated with a proposed civil penalty of \$22,400.

The NOPV was issued in response to PHMSA inspections of the Hess Red Sky pipeline system in Minot, North Dakota on July 29 – August 2, August 5 – 9, 12 – 16, and 19 – 23, 2019. Without admitting the allegations, facts, or conclusions set forth in the NOPV, Hess requests a Hearing on the violations alleged under Items 2, 4, 5, 6, 7, 8 and 9 of the NOPV. In addition, Hess respectfully requests that, given the information submitted in these pleadings, the Proposed Civil Penalty be significantly reduced, and the Proposed Compliance Order be withdrawn with respect to Items 2 and 7 and amended with respect to Items 4 and 6.

¹ The NOPV was addressed to Hess Corporation. However, the entity that owns and operates the pipeline system that is the subject of the NOPV is Hess North Dakota Pipelines LLC, an affiliate of Hess Corporation. Hess requests that the NOPV be amended to address the appropriate corporate entity.

Response to NOPV Items

NOPV Item 2: §195.208 Welding of supports and braces.

Supports or braces may not be welded directly to pipe that will be operated at a pressure of more than 100 p.s.i. (689 kPa) gage.

Hess failed to prevent welding of supports to pipe that will be operated at a pressure of more than 100 pounds per square inch (psig). PHMSA observed pipe with a maximum operating pressure of 1,250 psig that had supports welded directly to the pipe. This pipe with welded supports is downstream of the pump at the Hawkeye Compressor Facility and is part of the natural gas liquids pipeline. According to Hess, this pipe was built to ASME B31.3 which allows welding of supports to the pipe; however, that practice is not allowed per §195.208 when the pipe was installed in 2017.

The Proposed Compliance Order states:

In regard to Item Number 2 of the Notice pertaining to welding of supports to pipe that will be operated at a pressure of more than 100 psig, Hess must remove all welded supports from the NGL line located within the Hawkeye Compressor Facility. Hess must submit a progress update to the Central Region Director within 90 days of the Final Order and documentation of completed work within 180 days of the Final Order.

Hess's Response to Item 2

Hess respectfully requests that PHMSA withdraw Item 2 of the NOPV because the area of piping with welding supports at issue is part of the facility's non-jurisdictional in-plant piping system.

The "in-plant piping exception" applies to the Hawkeye Gas Facility because PHMSA has previously interpreted the exception as applying to facilities that process gas by removing natural gas liquids ("NGLs"), like Hawkeye.² In addition, the area of piping is upstream of Shut Down Valve HCS4003 ("SDV HCS4003"), which is the demarcation point between the downstream PHMSA jurisdictional pipeline and Hess's non-jurisdictional "in-plant piping system" under PHMSA's "in-plant piping system exception."³ SDV HCS4003, which is controlled by a pressure transmitter, marks the end of Hawkeye's in-plant piping system because it is a device that is necessary to control the downstream jurisdictional pipeline's pressure.

² In addition to water removal through dehydration, Hawkeye Gas Facility utilizes a refrigeration dew-point control process to remove water and heavier liquids.

³ See 49 C.F.R. § 195.1(b)(8).

I. PHMSA excludes “in-plant piping systems” associated with “production, refining, or manufacturing facilities” from its jurisdiction.

With a few exceptions, 49 C.F.R. Part 195 applies to pipeline facilities that transport hazardous liquids in or affecting interstate commerce.⁴ Among the exceptions is transportation through onshore production, refining, or manufacturing facilities, or storage or “in-plant piping systems” associated with such facilities.⁵

A. “Refining facilities” includes facilities that are “involved in one of the processes of a refinery,” such as gas processing plants that remove NGLs.

Part 195 does not define refining facilities, but PHMSA “identif[ies] them by the function implicit in the term. If a facility is involved in one of the processes of a refinery, [PHMSA] consider[s] it a refining facility.”⁶ PHMSA has previously interpreted gas processing plants that “receive gas from a gas gathering system and process the gas by removing [NGLs]” to fall within the exception for “refining or manufacturing facilities or associated in-plant piping.”⁷ PHMSA further found that the “exclusion covers the facilities used in the collection of NGLs inside a gas processing plant.”⁸

PHMSA’s interpretation for gas processing plants stems from PHMSA’s broad defining of “refining facilities,” to include those facilities “involved in one of the processes of a refinery,” such as natural gas water removal.⁹ Furthermore, PHMSA recognizes “water removal” as one of the “four main processes” of natural gas processing,¹⁰ which is also commonly referred to as natural gas refining.¹¹

B. PHMSA interprets “in-plant piping systems” to consist of hazardous liquid piping “that is located on the grounds of a plant,” up to “any device and associated piping that are necessary to control [the] pressure” of a jurisdictional pipeline.

PHMSA defines “in-plant piping system” as “piping that is located on the grounds of a plant and used to transfer hazardous liquid . . . between plant facilities or between plant facilities and a pipeline or other mode of transportation, not including any device and associated

⁴ *Id.* § 195.1(a).

⁵ *Id.* § 195.1(b)(8).

⁶ PHMSA Interpretation No. PI-91-008 (Mar. 25, 1991), available [here](#).

⁷ PHMSA Interpretation No. PI-91-038 (Dec. 26, 1991), available [here](#).

⁸ *Id.*

⁹ See PHMSA Interpretation No. PI-91-008 (Mar. 25, 1991), available [here](#) (defining refining facilities broadly based on “function” and not strictly based on perception).

¹⁰ PHMSA, Fact Sheet: Natural Gas Processing Plants (Oct. 25, 2017), available [here](#).

¹¹ See James G. Speight Ph.D., D.Sc., *Natural Gas: A Basic Handbook* (2019), available [here](#) (describing natural gas processing as natural gas refining); see also *Merriam-Webster Dictionary* (online edition) (defining refinery as “a building and equipment for refining or *processing* something”) (emphasis added).

pipings that are necessary to control pressure in the pipeline under § 195.406(b).”¹² PHMSA intends for the term “in-plant piping system” to be used as it is ordinarily and reasonably understood.¹³

II. The demarcation point between a PHMSA jurisdictional pipeline and a non-jurisdictional “in-plant piping system” is the “pressure control device” necessary to control a jurisdictional pipeline’s pressure.

PHMSA has applied consistent methodology for determining the extent of “in-plant piping systems.” In 1991, prior to defining the term, PHMSA provided an interpretation letter to a refiner explaining the methodology for determining the demarcation point between a jurisdictional pipeline and a non-jurisdictional “in-plant piping system.” The refiner asked PHMSA to describe which portion of a pipeline within a refinery’s boundary is subject to PHMSA jurisdiction. PHMSA responded that:

The regulated pipeline ends and the in-plant piping begins at the outlet of each pressure control device on refinery grounds that is necessary for the operator to control pressure in the pipeline outside the refinery grounds. If the operator has adequate alternative means to control pressure in the pipeline outside the refinery grounds, then we consider the regulated pipeline to end at the boundary of the refinery grounds.¹⁴

PHMSA used the same methodology a few years later to formally define “in-plant piping system.” PHMSA explained that:

[T]he inlet of the pressure control device would demarcate in-plant piping if the pipeline is moving product away from plant grounds; the outlet of the pressure control device if the pipeline is supplying the plant. If there is no such pressure control device on plant grounds, in-plant would extend to the boundary of plant grounds.¹⁵

¹² 49 C.F.R. § 195.2 (emphasis added); *see id.* § 195.406(b) (stating that “[n]o operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit . . . Each operator must provide adequate controls and protective equipment to control the pressure within this limit”).

¹³ 57 Fed. Reg. 56304, 56305 (Nov. 27, 1992) (applying an “ordinary understanding of ‘in-plant’” when defining “in-plant piping systems”); 59 Fed. Reg. 33,388, 33,389 (explaining that “[s]ince neither the [Hazardous Liquid Pipeline Safety Act of 1979] nor its legislative history explain ‘in-plant piping,’ we adopt an ordinary, reasonable understanding of the term”).

¹⁴ PHMSA Interpretation No. PI-91-008 (Mar. 25, 1991), available [here](#); *see also* PHMSA Interpretation No. PI-91-038 (Dec. 26, 1991), available [here](#) (stating that “in-plant piping ends and the regulated pipeline begins at the inlet of each pressure control device on plant grounds that is necessary for the pipeline operator to control pressure in the pipeline outside the plant grounds”).

¹⁵ 57 Fed. Reg. at 56,305; *see also* 59 Fed. Reg. 33,389 (Jun. 28, 1994) (final rule).

A. The “pressure control device” demarcating PHMSA jurisdiction is not always the pressure source and may be a valve.

In a 1995 interpretation letter, PHMSA wholly agreed with a refiner’s interpretation that PHMSA’s jurisdiction does not necessarily extend to a pressure source if a device exists within a facility to protect a jurisdictional pipeline outside of the facility. Specifically, the refiner interpreted Part 195 to mean, and PHMSA agreed, that:

[PHMSA jurisdiction] extend[s] upstream, that is, into the refinery, to a device that is necessary to protect the pipeline outside the refinery from overpressure [and that] the existence of additional overpressure protective devices within the plant, and for the protection of the piping between the pressure source and the device which protects the pipeline, does not affect the limits of [that] jurisdiction.¹⁶

Most recently in April 2020, PHMSA expressly recognized the treatment of several different types of valves, which limit or control jurisdictional pipeline pressure, as proper demarcation points between PHMSA jurisdictional pipelines and non-jurisdictional “in-plant piping systems.”¹⁷ These valves included:

- The outlet flange of a valve located immediately downstream of the emergency shutdown valve, which protects in-plant piping and could influence jurisdictional pipeline pressure;
- The nearest valves upstream and downstream of pig launchers and receivers; and
- The valve upstream of a pressure transmitter, such as SDV HCS4003, and motor-operated valve, which together limit jurisdictional pipeline pressure.

In the refiner’s interpretation request, the refiner, in part, requested confirmation from PHMSA that its chosen demarcation point—an emergency shutdown valve located near the plant’s boundary—was consistent with the methodology applied in determining an “in-plant piping system.” The refiner explained that PHMSA guidance refers to “pressure control devices” as having “inlets” or “outlets,” and that such devices are typically valves (e.g., pressure control valves, pressure relief valves, and motor-operated valves), which universally have inlets and outlets. Further, the refiner explained that its emergency shutdown valve, which protects in-plant piping, also can influence the pressure of the connected jurisdictional pipeline. PHMSA confirmed this understanding stating that the refiners “chosen demarcation point is not inconsistent with § 195.1.”¹⁸

¹⁶ PHMSA Interpretation No. PI-95-022 (May 24, 1995), available [here](#).

¹⁷ PHMSA Interpretation No. PI-20-0004 (Apr. 7, 2020), available [here](#).

¹⁸ *Id.*

III. Conclusion

Because the Hawkeye Gas Facility is considered a “production, refining, or manufacturing” facility and SDV HCS4003 is able to control the pressure of the jurisdictional pipeline outside of the facility’s boundaries, SDV HCS4003’s treatment as the demarcation point between the PHMSA jurisdictional pipeline and Hess’s non-jurisdictional “in-plant piping system” is consistent with the “in-plant piping system exception.”

The Hawkeye Gas Facility compresses and processes produced gas then sends the NGLs offsite via pipeline. Hawkeyes operations include water removal through dehydration and a refrigeration dew-point control process that removes water and heavier liquids. Based on PHMSA’s prior interpretation of a gas processing plant that removes NGLs as a “refining facility,” the “in-plant piping system exception” applies to the Hawkeye facility.

SDV HCS4003 is located downstream of the Hawkeye facility’s pipeline’s pressure source and is the last shutdown valve on the pipeline before it leaves the Hawkeye facility’s boundary. In addition, SDV HCS4003 serves as a pressure protection device that controls the pressure of the downstream jurisdictional pipeline outside of the facility’s boundaries. Specifically, SDV HCS4003 is controlled by a pressure transmitter that will automatically close the valve if pressure upstream of the transmitter reaches a predetermined set point of 1,090 psig. This will in turn shut in other shutdown valves and system (facility) pumps. This ensures that pressure downstream of SDV HCS4003—within the jurisdictional pipeline—will not “exceed 110 percent of the operating pressure limit” in accordance with 49 C.F.R. § 195.406(b).¹⁹ The predetermined set point of 1,090 psig is less than the pipeline’s tested maximum operating pressure of 1,250 psig. Thus, the pipeline cannot overpressure. Therefore, based on Part 195’s definition of “in-plant piping system,” as it is ordinarily and reasonably understood and interpreted by PHMSA, the Hawkeye facility’s SDV HCS4003 serves as the demarcation point between the PHMSA jurisdictional pipeline and Hess’s non-jurisdictional “in-plant piping system.”

For the foregoing reasons, the area of piping at issue in Item 2 of the NOPV is not subject to PHMSA jurisdiction under the in-plant piping exception. Therefore, Item 2 of the NOPV and the associated requested action in the Proposed Compliance Order should be withdrawn.

NOPV Item 4: § 195.402 Procedural manual for operations, maintenance, and emergencies.

(a)

¹⁹ See 49 C.F.R. § 195.2 (defining “in-plant piping system” to include in-plant piping up to any device that is “necessary to control pressure in the pipeline under § 195.406(b)”); see also PHMSA Interpretation No. PI-91-008 (Mar. 25, 1991), available [here](#); PHMSA Interpretation No. PI-91-038 (Dec. 26, 1991), available [here](#) (stating that “in-plant piping ends and the regulated pipeline begins at the inlet of each pressure control device on plant grounds that is necessary for the pipeline operator to control pressure in the pipeline outside the plant grounds”).

(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1)

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

Hess failed to prepare a procedure that is compliant with the requirements of 195.402(c)(13) to periodically review the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and take corrective action where deficiencies were found. Specifically, during the inspection, Hess pointed to Appendix 6-9 of its Operator Qualification (OQ) Program, last revised on 3/26/2018, when asked for its §195.402(c)(13) procedure. This Appendix simply repeats the text of the regulation and appears to be an OQ review to ensure employees and contractors are adequately trained to follow the procedures. Additionally, Hess was unable to provide any documentation that it had performed a review of work done by operator personnel to determine the effectiveness of the procedures per §195.402(c)(13). Specifically, Hess' procedure fails to do the following:

- 1. Define periodically or clearly state how often the effectiveness review will take place for each procedure used in normal operation and maintenance.*
- 2. Clearly indicate who will perform the effectiveness review.*
- 3. State clear documentation requirements.*
- 4. Detail a process for how a review of work done by operator personnel to determine the effectiveness of the procedures should be performed.*

The Proposed Compliance Order states:

In regard to Item Number 4 of the Notice pertaining to periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance, Hess must complete development of the procedures and send to the Central Region Director within 30 days of the Final Order. The first run implementation of the program must begin within 90 days of the Final Order, and documentation of the results submitted to the Central Region Director within 180 days of the Final Order.

Hess's Response to Item 4

Hess respectfully requests an extension of the requested action in the Proposed Compliance Order associated with Item 4.

Hess is currently evaluating its current Operator Qualification ("OQ") program and reviewing all identified covered tasks, which includes:

- Reviewing written covered tasks to improve written descriptions and instructional information;
- Reviewing and updating as necessary the training elements associated with covered tasks; and
- Reviewing the required frequency of recertification of covered tasks.

As part of the OQ program review, Hess will develop standards that will include an effectiveness review of each identified covered tasks listed in the Operations & Maintenance manual. The standard will include details on who will complete the effectiveness review and the required documentation.

Hess is working diligently to complete development of the standard but requests an extension of 120 days in which to complete this action to meet the Proposed Compliance Order.

NOPV Item 5: § 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

Hess failed to inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used at intervals not exceeding 15 months but at least once per calendar year or not to exceed 7 ½ months, but at least twice each calendar year for pipelines that carry highly volatile liquids. Specifically, Hess did not complete 28 inspections on the following overpressure control devices.

Service	PSV #	Inspection Interval Start	Inspection Interval End	Missing Inspections	Lapsed Time (Days)	Allowed Time (Days)
*Hawkeye NGL	0120A	2/15/2017	1/8/2020	4	1057	225
Hawkeye NGL	0120B	2/15/2017	7/2/2018	2	502	225
TGP-TRT Propane	593500	4/17/2017	7/27/2018	2	466	225
TGP-TRT Propane	593501	4/17/2017	7/26/2018	2	465	225
TGP-TRT Butane	593600	4/17/2017	7/27/2018	2	466	225
TGP-TRT Butane	593601	4/17/2017	7/27/2018	2	466	225
TGP-TRT Neutral Gasoline	593700	4/17/2017	7/27/2018	1	466	450
TGP-TRT Neutral Gasoline	593701	4/17/2017	7/27/2018	1	466	450
Siurian NGL	PSV-0520A	05/20/17	09/12/18	2	480	225
Siurian NGL	PSV-0520B	5/20/2017	9/12/2018	2	480	225
Siurian NGL	PSV-0420	02/15/17	09/12/18	2	574	225
Siurian NGL	PSV-0421A	02/15/17	09/12/18	2	574	225
Siurian NGL	PSV-0421B	02/15/17	09/12/18	2	574	225
Keene Crude Oil Gathering (including Johnson's Corner and Crestwood)	PSVCWF100104	09/17/17	07/19/19	1	670	450
Keene Crude Oil Gathering (including Johnson's Corner and Crestwood)	PSVDPL100104	09/17/17	07/19/19	1	670	450

*PSV 0120A has never received an inspection, range taken as invoice date to final date of records submission.

The NOPV proposes a civil penalty of \$86,200 for this Item 5.

Hess's Response to Item 5

Hess respectfully requests a reduction in the Proposed Civil Penalty associated with Item 5.

Hess has completed a review of the 28 overdue inspections on overpressure control devices and has determined that administrative name changes in the prior years caused confusion leading to process safety information not being properly updated. To prevent recurrence of this issue and address any other challenges associated with management of the relief valve ("PSV") population, during calendar year 2020, a comprehensive review of PSV data was completed for all midstream assets in North Dakota, including DOT-regulated relief valves. The primary goals of this effort were:

1. Populate Hess's Plant Condition Management Software ("PCMS") database with the most accurate equipment information and test history available;
2. Make any necessary updates to Hess's internal SAP and P&ID's to ensure that they align with the PCMS database; and
3. Publish a standard for North Dakota operations to document the requirements, roles and responsibilities, and quality assurance practices associated with relief valve testing and inspections.

Following this effort, the PCMS database currently contains the updated information for all DOT regulated relief valves and is being used to track their test schedules for compliance. As of March 16, 2021, there are no overdue DOT relief valve inspections.

Based on this comprehensive effort and pursuant to the Nature, Gravity, History of Prior Offenses, Good Faith and Other Matters factors set forth in PHMSA's regulations and Civil Penalty Summary Policy, Hess believes the facts, circumstances, and Hess's efforts warrant a downward departure of the Proposed Civil Penalty to \$45,000. Specifically, the following factors under PHMSA's Civil Penalty Summary warrant this adjustment:

- The Nature of Item 5 may be characterized as missing or incomplete records rather than missed inspections;
- The Gravity of Item 5 resulted in minimal, if any, effects on pipeline safety and did not involve a high-consequence area or an area required to be covered by a gas distribution system management area;
- There is not a History of Prior Offenses related to Item 5; and
- Other Matters as Justice May Require include Hess's good faith efforts to comply, as well as its comprehensive efforts to prevent recurrence of the issue. Hess went beyond what is necessary to prevent recurrence of the specific violation and completed an effort to find and address any other potential issues associated with managing the relief valve population. In addition, Hess

completed its corrective actions through the use of internal compliance management programs to further prevent recurrence of the issue.

NOPV Item 6: § 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)

(6) Identification of preventive and mitigative measures to protect the high consequence area (see paragraph (i) of this section);

(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.

Hess did not develop and implement a procedure for the identification of P&M measures that is compliant with § 195.452(f)(6). The current process, last revised on 3/12/2018, lists activities that may be included as P&M measures, but does not give any details on how to proceed with identifying measures to be implemented. Specifically, the process fails to do the following:

- 1. Define a timeframe for periodically identifying additional general P&M measures that includes a risk analysis in accordance with § 195.452(i).*
- 2. Define a timeframe for additional leak detection and emergency flow restricting device (EFRD) evaluations.*
- 3. Give details for how the identification of general P&M measures should be performed and how the leak detection and emergency flow restricting device evaluations should be performed.*
- 4. Clearly indicate who will conduct the identification of general P&M measures and evaluations of the leak detection system and emergency flow restricting devices.*

5. *State the documentation requirements in accordance with § 195.452(l) for each evaluation, including the possible P&M measures considered and the basis supporting the decisions and analyses to implement certain additional P&M measures.*

The Proposed Compliance Order States:

In regard to Item Number 6 of the Notice pertaining to identifying preventive and mitigative (P&M) measures to protect high consequence areas, Hess must complete development of the procedures and send to the Central Region Director within 30 days of the Final Order. The first run implementation of the program must begin within 90 days of the Final Order, and documentation of the results submitted to the Central Region Director within 180 days of the Final Order.

Hess's Response to Item 6

Hess respectfully requests an extension in which to complete the requested action in the Proposed Compliance Order associated with Item 6.

Since January 2020, Hess has been implementing a milestone plan to support addressing the requirements of 49 CFR § 195.452. This has or will involve third-party contracting, pipeline risk modeling, development of an updated pipeline risk procedure and finally risk mitigation implementation which includes development of a preventive and mitigative (“P&M”) measures plan. The P&M measures plan is scheduled to be developed beginning in July 2021 through December 2021.

Accordingly, Hess respectfully requests an extension of the Proposed Compliance Order requested action associated with Item 6 until March 30, 2022 to submit the procedures, 90 days thereafter for first run of implementation, and 180 days thereafter for submission of the results to allow Hess to complete this comprehensive effort.

NOPV Item 7: § 195.579 What must I do to mitigate internal corrosion?

(a) General. If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.

On multiple segments of its Bakken Red Sky pipeline, Hess failed to investigate the corrosive effects of the hazardous liquids transported. Despite being aware that the hazardous liquid transported would corrode the pipeline as confirmed by a 2011 study concluding that inhibitors be used in the Palermo segment; Hess did not investigate the corrosive effect on other segments until July 5, 2019 when the 8” Hawkeye (Oil) pipeline segment underwent an internal corrosion assessment. Of Hess’s remaining system, there are a total of 23 line segments that required an investigation into the corrosive effects of hazardous liquids, of which, only 2 have received an investigation, leaving 21 segments shown below in the table that need to be investigated.

The Proposed Compliance Order States:

In regard to Item Number 7 of the Notice pertaining to investigating and mitigating the corrosive effects of hazardous liquids on its pipelines, Hess must complete the investigation into the corrosive effects of each hazardous liquid pipeline. Hess must submit a progress update to the Central Region Director within 90 days of the Final Order and documentation of the completed investigations within 180 days of the Final Order.

Hess's Response to Item 7

Hess respectfully requests that PHMSA withdraw the requested action in the Proposed Compliance Order associated with Item 7 because this action item has already been completed and the requested action is therefore moot.

In recent years, Hess has taken the following actions to investigate the corrosive effects of the crudes transported in Hess pipelines:

1. Since 2019, Hess has collected corrosivity investigation data to execute a thorough internal corrosion ("IC") assessment on all DOT regulated liquid pipelines. The IC assessment including corrosivity investigation work has been done on all DOT regulated pipelines segments.
2. Since December 2018, Hess has completed the following work to investigate corrosive effects of the crude oil transported by Hess pipelines.

Corrosivity Test Items	Which Pipeline to be Tested	Frequency of Test	Time of Test
2019 TRT water testing	TRT oil battery, Pipeline representative	One time	04/24/2019
Water-Drop Out Test	Pipeline representative	One time	02/28/2020
Hess Crude Oil Analysis report	Berner/Nelson field	One time	12/19/2018
Upstream Water Analysis	Field representative	Quarterly	Quarterly
Microbial Swab and Testing	At each pipeline	Once every six months	Since 2020
Solid XRF Analysis	At each pipeline	Once every six months	Since 2020
HESS OG TRT Water Draw Water Analysis	TRT crude tanks	Once each year	Since 2020
HESS OG Water Dropout from Crude Test	Pipeline representative	Once each year	Since 2020
Solid XRF Analysis (occasionally case by case)	When a pipe was open, and a solid sample was taken	At every opportunity	Since 2020

OG water sampling and testing	When OG Ops find water from pipelines	At every opportunity	Since 2020
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3. Since 2020, Hess has been using ultrasonic (“UT”) sensors installed on DOT regulated pipeline segments to support the work of investigation of corrosive effect on the pipelines. Presently, there are 21 UT sensors installed on 20 DOT regulated pipeline segments including both liquid and gas pipelines. In 2021, 11 locations on 11 DOT regulated pipeline segments are planned for installation of UT sensors. At the end of 2021, all DOT regulated pipelines shall be monitored by UT sensors for internal corrosion purposes.
4. Since 2020, Hess has developed an “Internal Corrosion Control Procedure for Hazardous Liquids Pipelines” and a “2021 Detailed Pipeline Internal Corrosion Control Plan.” In both the Procedure and the Plan, the requirement of investigation of corrosive effects of hazardous liquids is called “Corrosivity Investigation,” and it is an imperative part of Hess’s IC Program work. In summary, Hess has and will continue to take procedural approaches to make the work of “Corrosivity Investigation” routine, which includes the baseline actions as follows:
 - Review water analysis data from wells that feed the pipeline system.
 - Acquire water samples from water draw at Tioga Rail Terminal (“TRT”) oil tank (or at any other pipeline locations) once per year.
 - Test water drop-out in laboratory once per year.
 - Analyze solid and microbe samples taken when cleaning pigs are received twice per year (if solids are visible).
5. Finally, Hess uses KPIs (Key Performance Indicators) to provide visibility that requirements of the “2021 Detailed Pipeline Internal Corrosion Control Plan” are being fully completed on time to support the management of the work required around corrosivity investigation.

In light of these efforts, the requested action item in the Proposed Compliance Order associated with Item 7 is moot, and Hess respectfully requests that it be withdrawn.

NOPV Item 8: § 195.579 What must I do to mitigate internal corrosion?

(a)

(b) Inhibitors. If you use corrosion inhibitors to mitigate internal corrosion, you must—

(1) Use inhibitors in sufficient quantity to protect the entire part of the pipeline system that the inhibitors are designed to protect...

Hess failed to use inhibitors in sufficient quantity to protect the entire part of the pipeline system that inhibitors are designed to protect. Hess began injecting inhibitors into the Palermo Lateral segment in 2011, but not in sufficient quantity. Specifically, Hess

representatives stated that the corrosion inhibitor injection rate did not meet the quantity specified, and the injection rate did not account for the flowrate of hazardous liquid in the pipeline segment to ensure a sufficient quantity of inhibitor was used.

The NOPV proposes a civil penalty of \$19,000 for this Item 8.

Hess's Response to Item 8

Hess respectfully requests a reduction in the Proposed Civil Penalty associated with Item 8.

To treat pipelines with inhibitor in sufficient quantity, Hess has done the following since the beginning of 2020:

1. In early 2020, Hess worked with a third-party contractor to set up an inhibitor treatment target and a plan to conduct quarterly batch treatment with the inhibitor, as recommended by Hess's chemical contractor on specific pipelines.
2. Based on Hess's "Internal Corrosion Control Procedure for Hazardous Liquids Pipelines" and the IC action plan, Hess has set up inhibitor treatment for the following oil pipeline segments since 2020:

Segments Covered	Treatment Volumes	Treatment Frequency	Treatment Started
MIDWAY TO TESORO KEENE STATION	12 gals	Quarterly	Q3 2020
MIDWAY TO BOOSTER SUCTION TO MIDWAY	16 gals	Quarterly	Q3 2020
RS STATE A	12 gals	Quarterly	Q1 2020

3. In addition, to fully implement the IC Program Procedure, Hess set up more inhibitor treatments as part of the "2021 Detailed Pipeline Internal Corrosion Control Plan." The following inhibitor treatments were commenced in first quarter 2021:

Segments Covered by	Treatment Volumes	Treatment Frequency	Treatment Started
GO 10" OIL MAINLINE	121 gals	Quarterly	Q1 2021
HAWKEYE SOR NGL	194 gals	Quarterly	Q1 2021
HOFFLUND – SILURIAN NGL	194 gals	Quarterly	Q1 2021
SILURIAN-TGP NGL	142 gals	Quarterly	Q1 2021

4. Finally, Hess uses KPIs (Key Performance Indicators) to provide visibility that requirements of the “2021 Detailed Pipeline Internal Corrosion Control Plan” and “Internal Corrosion Control Procedure for Hazardous Liquids Pipelines” are being fully completed on time to support the management of the work required around corrosivity mitigation.

Based on this comprehensive effort and pursuant to the Nature, Gravity, History of Prior Offenses, Good Faith and Other Matters factors set forth in PHMSA’s regulations and Civil Penalty Summary Policy, Hess believes the facts, circumstances, and Hess’s efforts warrant a downward departure of the Proposed Civil Penalty to \$5,000. Specifically, the following factors under PHMSA’s Civil Penalty Summary warrant this adjustment:

- The Nature of Item 8 may be characterized as incomplete rather than a failure to comply;
- The Gravity of Item 8 resulted in minimal, if any, effects on pipeline safety and did not involve a high-consequence area or an area required to be covered by a gas distribution system management area;
- There is not a History of Prior Offenses related to Item 8; and
- Other Matters as Justice May Require include Hess’s good faith effort to comply by having inhibitors installed as well as its comprehensive efforts to implement measures that not only meet but exceed the requirements.

NOPV Item 9: §195.579 What must I do to mitigate internal corrosion?

(b) Inhibitors. If you use corrosion inhibitors to mitigate internal corrosion, you must—

(1)

(2) Use coupons or other monitoring equipment to determine the effectiveness of the inhibitors in mitigating internal corrosion; and

Hess failed to use coupons or other monitoring equipment to determine the effectiveness of inhibitors and examine the coupons or other monitoring equipment at least twice each calendar year not exceeding 7 ½ months. Specifically, Hess did not install coupons or other monitoring equipment on the Palermo Lateral line to determine the effectiveness of the inhibitors.

The NOPV proposes a civil penalty of \$22,400 for this Item 9.

Hess’s Response to Item 9

Hess respectfully requests a reduction in the Proposed Civil Penalty associated with Item 9.

Beginning in 2020, Hess has implemented an internal requirement in its IC Program Procedure and the action plan to install UT sensors as IC monitoring devices on Hess DOT regulated pipelines.

1. In July 2020, a UT sensor was installed on a buried portion of the Palermo Lateral line and since then the measurement readings of the sensor have been taken quarterly.
2. In 2020, Hess installed UT sensors in 21 locations on 20 DOT regulated pipeline segments including both liquid and gas pipelines.
3. In 2021, Hess plans to install UT sensors in 11 locations on 11 DOT regulated pipeline segments including both liquid and gas pipelines.
4. Based on Hess's "2021 Detailed Pipeline Internal Corrosion Control Plan," each installed UT sensor should be surveyed at least either four times per year ("quarterly") or two times per year but no longer than an interval of seven and half months. Under a conservative approach, Hess has conducted quarterly surveys on each UT sensor.
5. Hess has implemented pipe wall thickness survey (by manual UT technique) on all DOT regulated pipeline risers since the beginning of 2020. The survey is performed twice each year.
6. Finally, Hess uses KPIs (Key Performance Indicators) to provide visibility that requirements of the "2021 Detailed Pipeline Internal Corrosion Control Plan" are being fully completed on time to support the management of the work required around IC mitigation.

Based on this comprehensive effort and pursuant to the Nature, Gravity, History of Prior Offenses, Good Faith and Other Matters factors set forth in PHMSA's regulations and Civil Penalty Summary Policy, Hess believes the facts, circumstances, and Hess's efforts warrant a downward departure of the Proposed Civil Penalty to \$8,000. Specifically, the following factors under PHMSA's Civil Penalty Summary warrant this adjustment:

- The Nature of Item 9 may be characterized as incomplete rather than a failure to comply;
- The Gravity of Item 9 resulted in minimal, if any, effects on pipeline safety and did not involve a high-consequence area or an area required to be covered by a gas distribution system management area;
- There is not a History of Prior Offenses related to Item 9; and

- Other Matters as Justice May Require include Hess's good faith effort to comply as well as its comprehensive efforts to implement measures that not only meet but exceed the requirements.

Conclusion

For the reasons discussed above and in the related Statement of Issues, and other matters as justice may require, Hess respectfully requests that the Proposed Civil Penalty be significantly reduced, and the Proposed Compliance Order be withdrawn with respect to Items 2 and 7 and amended with respect to Items 4 and 6. Hess reserves the right to supplement these positions and introduce additional information, if necessary, at the hearing.

Respectfully Submitted,



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