



US Department
of Transportation

**Research and
Special Programs
Administration**

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

DEC 30 2003

Mr. Royce Ramsay
Vice President, Operations
Northern Natural Gas Company
1111 South 103rd Street
Omaha, NE 68124-1091

RE: CPF No. 34301

Dear Mr. Ramsay:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$5,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of

Northern Natural Gas Co.,

Respondent

CPF No. 34301

FINAL ORDER

On December 15-16, 1992, pursuant to 49 U.S.C. § 60117, representatives of the Minnesota Office of Pipeline Safety, as agents for the Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Respondent's liquefied natural gas (LNG) facilities and records in Wrenshall, Minnesota. As a result of the inspection, the Director, Central Region, OPS, issued to Respondent, by letter dated March 8, 1994, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 193.2621(a) and proposed assessing a civil penalty of \$5,000 for the alleged violation.

Respondent responded to the Notice by letter dated April 11, 1994 (Response). Respondent did not contest the allegation of violation but offered an explanation and requested that the proposed civil penalty be eliminated. Respondent did not request a hearing, and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the alleged violation in the Notice. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 193, as more fully described in the Notice:

49 C.F.R. § 193.2621(a) – failing to test the propane transfer hose SP-703 (F-703) to the maximum relief valve setting on the line. From 1988 to 1992, Respondent pressure tested the hose to 110 psig, instead of the actual relief valve setting of 240-250 psig.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

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

The Notice proposed a total civil penalty of \$5,000 for violation of § 193.2621(a). In its Response, Respondent contended that the proposed civil penalty is not justified based on the assessment criteria in §§ 190.225(a), (c), and (e).

Section 190.225(a) requires that, in determining the amount of the civil penalty, I consider the nature, circumstances, and gravity of the violation. Respondent asserted that it fully intended to comply with § 193.2621 and that it tested the transfer hose in question at the requisite intervals. Respondent further asserted that the transfer hose had design working and burst pressures well in excess of the maximum operating pressure of the system to which it was attached.

The purpose of § 193.2621 is to protect public safety by ensuring that specific pieces of equipment are free of defects which may prevent them from meeting the demands of a given application. Respondent admitted that it violated this regulation, albeit unintentionally, by failing to test the propane transfer hose to the maximum relief valve setting. While Respondent submitted evidence that the hose had a design strength exceeding the maximum demands placed on the hose, pipeline safety was nevertheless compromised by Respondent's failure to verify the integrity of the hose at the maximum relief valve setting.

Section 190.225(c) requires that, in determining the amount of the civil penalty, I consider the Respondent's history of prior offenses. Respondent asserted that it does not have a significant history of prior offenses and that its policy is to fully comply with all applicable regulations. While Respondent's history of compliance is noted, I do not find that it justifies a reduction in the civil penalty in this case.

Section 190.225(e) requires that, in determining the amount of the civil penalty, I consider any good faith by the Respondent in attempting to achieve compliance. Respondent asserted that it demonstrated good faith by testing the hose at the correct intervals and by retesting the hose the day after the inspection to a test pressure exceeding the maximum operating pressure.

Respondent indeed tested the subject hose at regular intervals, however Respondent did not test the hose in a manner that complied with § 193.2621. Respondent had ample time between 1988 and 1992 to discover this error, but failed to do so. Furthermore, I do not find the corrective action taken subsequent to the inspection date justifies mitigation.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000.

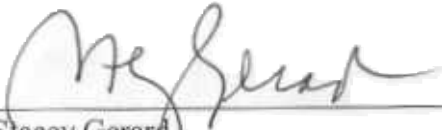
Payment of the civil penalty must be made within 20 days of service. Payment can be made by sending a certified check or money order (containing the CPF number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. After completing the wire transfer, send a copy of the electronic funds transfer receipt to the Office of the Chief Counsel (DCC-1), Research and Special Programs Administration, Room 8407, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001.

Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25770, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$5,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 4 C.F.R. § 102.13, and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

12/30/03
Date Issued