



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

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

MAR 19 2008

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Tom G. Winterton
President
Chevron Pipe Line Company
2811 Hayes Road
Houston, TX 77082-2642

Re: CPF No. 4-2005-8008

Dear Mr. Winterton:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$41,000. 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 the document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

William H. Giese
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

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

_____)
In the Matter of)

Chevron Pipe Line Company,)

Respondent)
_____)

CPF No. 4-2005-8008

FINAL ORDER

On October 19-20, 2003, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration's Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Chevron Pipe Line Company's (Respondent's) operator qualification (OQ) program and related records in Houston, Texas. Respondent operates pipeline systems throughout the United States that transport crude oil, refined petroleum products, highly volatile liquids, carbon dioxide, and natural gas. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated September 9, 2005, 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 committed violations of 49 C.F.R. Parts 192 and 195 and proposed assessing a civil penalty of \$41,000 for the alleged violations.

After requesting and receiving an extension of time to respond, Respondent responded to the Notice by letter dated November 22, 2005 (Response). Respondent provided information regarding the allegations of violation and requested that the proposed civil penalty be reduced to \$10,000. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Parts 192 and 195, as follows:

Item 1 in the Notice alleged that Respondent violated 49 C.F.R. §§ 192.805(b) and 195.505(b), which state:

§[§] 192.805 [and 195.505] – Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a)
- (b) Ensure through evaluation that individuals performing covered tasks are qualified

§[§] 192.803 [and 195.503] – Definitions.

....

Qualified means that an individual has been evaluated and can:

- (a) Perform assigned covered tasks; and
- (b) Recognize and react to abnormal operating conditions.

§[§] 192.809 [and 195.509] – General.

(a)

(c) Work performance history review may be used as a sole evaluation method for individuals who were performing a covered task prior to October 26, 1999.

(d) After October 28, 2002, work performance history may not be used as a sole evaluation method

Item 1A in the Notice alleged that for its natural gas and hazardous liquid pipeline operations, Respondent violated §§ 192.805(b) and 195.505(b), respectively, by failing to ensure that individuals performing covered tasks were properly qualified. Specifically, Item 1A alleged that Respondent used work performance history reviews (WPHRs) as the sole evaluation method to qualify many individuals performing covered tasks, but failed to verify that those individuals had been performing the covered tasks satisfactorily on a regular basis prior to October 26, 1999. Under §§ 192.809(c) and 195.509(c), only individuals who were performing a covered task prior to October 26, 1999 could be qualified using WPHR as the sole evaluation method.

In its Response, Respondent acknowledged that at the time of the OPS inspection in October 2003, many of its personnel who were subject to its OQ program had been qualified using WPHR as the sole evaluation method. Respondent explained that its process at the time was to keep documents supporting WPHR qualifications in the company’s field office files, rather than at the home office where the OPS inspection took place. Respondent indicated that the home office files examined by OPS contained documentation of completed qualifications, but “not necessarily all of the supporting documents needed to show regulatory compliance.” Respondent indicated that it performed a post-inspection audit of its field office files and found that many of the documents supporting WPHR qualifications had been available at the time of the inspection.

Unfortunately, Respondent did not submit any of those documents in its Response. As a result, I find the evidence in the record shows that Respondent did not verify whether individuals qualified using WPHR as the sole evaluation method had in fact been performing the covered tasks satisfactorily on a regular basis prior to October 26, 1999. Accordingly, I find Respondent violated §§ 192.805(b) and 195.505(b) by failing to ensure through evaluation that individuals performing covered tasks were properly qualified.

Item 1B in the Notice alleged that Respondent violated §§ 192.805(b) and 195.505(b), as quoted above, by failing to ensure through evaluation that individuals performing covered tasks were qualified and could recognize and react to abnormal operating conditions (AOCs). Specifically, Item 1B alleged that Respondent did not conduct written or oral examinations, training, or other type of evaluation to determine whether individuals who were qualified using WPHR as the sole evaluation method could also recognize and react to AOCs. Under §§ 192.803 and 195.503, Respondent may only qualify individuals who are able to recognize and react to AOCs.

In its Response, Respondent acknowledged that some individuals who were qualified using WPHR as the sole evaluation method did not receive AOC training and assessment, but indicated that corrective measures have been taken to ensure that all qualified individuals are able to recognize and react to AOCs. Accordingly, I find that Respondent violated §§ 192.805(b) and 195.505(b) by failing to ensure through evaluation that individuals qualified using WPHR as the sole evaluation method were also able to recognize and react to AOCs.

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 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. The Notice proposed a civil penalty of \$41,000 for the violations of 49 C.F.R. §§ 192.805(b) and 195.505(b).

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, including adverse impact on the environment; degree of Respondent's culpability; history of Respondent's prior violations; Respondent's ability to pay the penalty; any effect of the penalty on Respondent's ability to continue doing business; and Respondent's good faith in attempting to comply with the pipeline safety regulations. In addition, I may also consider the economic benefit gained by Respondent from the violation(s) without any reduction because of subsequent damages; and such other matters that justice requires.

The Federal pipeline safety OQ regulations are designed to ensure a qualified work force and reduce the probability and consequence of a pipeline incident caused by human error. Respondent was found to have improperly qualified individuals who were performing covered tasks on Respondent's pipeline system. Respondent used WPHR as the sole evaluation method for many individuals, but the company did not verify that the individuals had been performing the covered tasks satisfactorily on a regular basis prior to October 26, 1999, a threshold requirement for individuals being qualified by WPHR. (WPHR is no longer permitted as the sole evaluation method.) Respondent also failed to ensure that individuals performing covered tasks were able to recognize and react to AOCs.

These violations of the OQ regulations increased the risk of human error adversely affecting the safe operation and integrity of Respondent's pipeline system. The violations also increased the risk that an abnormal operating condition would not be promptly identified and addressed in a manner that would ensure safety. Respondent's violation of §§ 192.805(b) and 195.505(b) constituted a safety risk for which Respondent is culpable.

In its Response, Respondent provided information concerning the development of its OQ plan, including revisions that were made to the plan in April 2002 to meet the regulatory deadline for qualifications. Respondent also contended that the OPS inspection in October 2003 did not review all of the relevant documentation because some material was located off-site at the company's field offices. However, in its Response, Respondent failed to submit any of the referenced material for OPS to review.

Respondent further contended that it has taken certain corrective actions to remediate the issues identified in the Notice. Respondent stated that it corrected discrepancies in its records, requalified employees, trained and assessed employees' abilities with respect to AOCs, and is maintaining proper compliance documentation. According to Respondent, OPS performed a subsequent OQ inspection and had not identified any outstanding issues.

Respondent has an affirmative obligation to comply with the pipeline safety regulations applicable to its pipeline system. Actions taken by Respondent in this case to come into compliance with the pipeline safety OQ regulations after the OPS inspection had taken place do not justify a reduction in the proposed civil penalty.

I find that the information submitted by Respondent does not warrant reducing the civil penalty in this matter. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$41,000**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment 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. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$41,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9, 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 action and the right to petition for reconsideration is waived. The terms and conditions of this Final Order shall be effective upon receipt.

William H. Guter
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

MAR 19 2008

Date Issued