



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety Administration**

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

OCT 12 2006

Mr. Larry D. Wilson
Vice President and Manager of Operations
Wolverine Pipe Line Company
8105 Valleywood Lane
Portage, MI 49024-5251

Re: CPF No. 3-2005-5024

Dear Mr. Wilson,

Enclosed is the Final Order issued by the Acting Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$11,750, and acknowledges your completion of the proposed compliance order items to comply with the pipeline safety regulations. When the civil penalty is paid, this enforcement will be closed. The penalty payment terms are set forth in the Final Order. 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

cc: Ivan A. Huntoon
Director, Central Region, OPS (PHP-300)

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

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

In the Matter of)

Wolverine Pipe Line Company,)

Respondent)

CPF No. 3-2005-5024

FINAL ORDER

On August 31- September 1, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's operator qualification (OQ) records and procedures at its headquarters in Portage, Michigan. As a result of the inspection, the Director, Central Region, OPS, issued to Respondent, by letter dated June 2, 2005, 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 Respondent had committed violations of 49 C.F.R. Part 195, and proposed assessing a civil penalty of \$21,500 for two of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct one of the alleged violations.

By letter dated July 6, 2005, Respondent requested an extension of the thirty-day deadline to respond to the Notice. The Director, Central Region, OPS granted the extension until August 19, 2005. Respondent responded to the Notice by letter dated August 15, 2005 (Response). Respondent did not contest the allegations of violation, but offered information to explain the allegations, described the corrective actions it had taken, and requested a reduction in the proposed civil penalty amount. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the alleged violations in the Notice. Accordingly, I find that Respondent violated the following sections of 49 C.F.R. Part 195, as more fully described in the Notice:

49 C.F.R. § 195.505 (Notice Item 1) – failing to follow its written OQ plan and document covered task qualification for a pipeline controller on task 6 in the 2002-2003 period;

49 C.F.R. § 195.505 (Notice Item 2) – failing to follow its written OQ plan and conduct annual re-evaluations of thirty-nine individuals for four tasks in 2003; and

49 C.F.R. § 195.507(a)(3) (Notice Item 3) – failing to maintain records documenting the dates of current qualification for seventeen employee evaluations in 2002 and two evaluations in 2003.

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.

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.

With respect to Item 1, the Notice proposed a civil penalty of \$2,000 for Respondents failure to follow its written OQ plan and document covered task qualification for a specified pipeline controller. In its Response, Respondent stated that it believed the individual had been qualified, but acknowledged that it was unable to produce any record of this qualification. Along with evaluation and qualification activity itself, accurate and complete recordkeeping is key to monitoring the implementation and ongoing effectiveness of any OQ program. Respondent has provided no information that would warrant a reduction in the civil penalty proposed in the Notice for Item 1. Accordingly, I assess Respondent a civil penalty of \$2,000 for violating 49 C.F.R. § 195.505.

With respect to Item 2, the Notice proposed a civil penalty of \$19,500 for Respondents failure to evaluate thirty-nine individuals for four covered tasks for the year 2003. In its response, Respondent acknowledged that these individuals had not been evaluated in 2003, but demonstrated that all of them had been evaluated in 2002 and twice in 2004 and that the period for which the qualifications had lapsed was actually only two months. Respondent also described the prompt and aggressive corrective actions it had taken in response including placing an experienced training coordinator to administer its OQ program and implementation of a computer based OQ testing program which will remind employees, supervisors and the training coordinator of re-qualification timelines and will track the dates when employees are requalified. Based on this information, I find that a reduction in the civil penalty proposed in the Notice for this item is warranted and Item 2 is reduced to \$9,750. Accordingly, I assess Respondent a civil penalty of \$9,750 for violating 49 C.F.R § 195.505.

For the reasons discussed above, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$11,750.

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-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

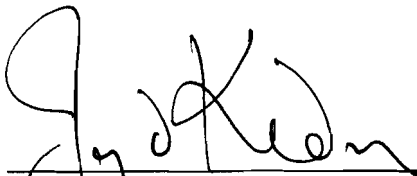
Failure to pay the \$11,750 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not 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.

COMPLIANCE ORDER

With respect to Item 3, the Notice proposed a compliance order. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Regional Director has indicated that Respondent has reviewed and documented the date of qualification of the nineteen individuals referenced in Item 3. Since compliance has been achieved with respect to this violation, it is unnecessary to include compliance terms in this Order.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, 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 a petition automatically stays the payment of any civil penalty assessed. All other terms of this Final Order, including any required corrective action, remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective on receipt.

for



Theodore L. Willke
Acting Associate Administrator
for Pipeline Safety

OCT 12 2006

Date Issued