



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

MAY 11 2006

Mr. Juan Carlos Cortes
President - Board of Directors
Pipelines of Puerto Rico
P. O. Box 366697
San Juan, Puerto Rico 00936-6697

RE: CPF No. 2-2005-6022

Dear Mr. Cortes:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$12,000 and specifies actions to be taken to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty is paid and the terms of the compliance order completed, as determined by the Director, Southern Region, this enforcement action will be closed. 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: Mr. Jerry Lucas Marrero, McConnell Valde's, Counsel for Pipelines of Puerto Rico
Doira Diaz, McConnell Valde's, Counsel for Pipelines of Puerto Rico
Ms. Linda Daugherty, Director, Southern Region, OPS

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

Pipelines of Puerto Rico,

Respondent.

CPF No. 2-2005-6022

FINAL ORDER

On June 30 through July 1, 2005, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, conducted an inspection of Respondent's Operator Qualification (OQ) records and procedures in San Juan, Puerto Rico. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated September 22, 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 committed violations of 49 C.F.R. Part 195 and proposed assessing a total civil penalty of \$12,000 for the alleged violations. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated November 2, 2005 to request a 15-day extension of time to respond to the Notice. The extension of time was granted on November 17, 2005. Respondent failed to respond at the expiration of the extension of time or within 30 days after it had received the Notice. Respondent did not contest the allegations of violation. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

Uncontested Violations

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(a) -- failure to have and follow a written qualification program with a completed covered task list at the time that the written Operator Qualification Plan (OQ) was mandated to be in effect, April 27, 2001. Respondent's covered task list was not completed until July 29, 2005 and the covered tasks list failed to address specific covered task that were being performed on the pipeline system;

49 C.F.R. § 195.505(b) -- failure to have and follow a written qualification program with provisions in the plan to address the use of training in the initial qualification of individuals performing covered tasks, or re-training of individuals whose qualification is in question;

49 C.F.R. § 195.505(b) -- failure to timely develop the list of abnormal operating conditions, as the list was not developed until March 2005. Employees could not have received abnormal operating conditions training prior to March 2005;

49 C.F.R. § 195.505(c) -- failure to have and follow a written qualification program with provisions to address the communication of abnormal operating conditions and covered task requirements between individuals who speak and understand different languages;

49 C.F.R. § 195.505(d) -- failure to have and follow a written qualification program with provisions in the plan to ensure evaluation of individuals whose performance may have contributed to an accident. Respondent also failed to have provisions in the plan to address the status of the individual in question until the investigation is complete;

49 C.F.R. § 195.505(e) -- failure to have and follow a written qualification program with provisions in the plan to determine whether an individual is no longer qualified to perform a covered task;

49 C.F.R. § 195.505(g) -- failure to have and follow a written qualification program with established re-evaluation intervals for covered tasks performed on pipeline system;

49 C.F.R. § 195.509(a) -- failure to have any information that proved a written qualification program had been implemented. Respondent provided a written document it identified as its OQ plan. However, the plan submitted by Respondent was a gas pipeline OQ plan. Respondent is a hazard liquid pipeline.

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. The Notice proposed a total civil penalty of \$12,000 for violations of 49 C.F.R. Part 195.

Item 1(A) of the Notice proposed a civil penalty of \$1,000 for violation of 49 C.F.R. § 195.505(a), as Respondent failed to have and follow a written qualification program with a completed covered task list by April 27, 2001, when the written OQ plan was mandated to be in effect. Respondent's covered task list was not completed until July 29, 2005. Respondent did not contest the violation or the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$1,000 for violation of 49 C.F.R. § 195.505(a).

Item 7 of the Notice proposed a civil penalty of \$1,000 for violation of 49 C.F.R. § 195.505(g), as Respondent failed to have and follow a written qualification program with established re-evaluation intervals for covered tasks performed on pipeline system. Respondent did not contest the violation or the civil penalty. The line is the primary source of jet fuel product to the airport. Respondent's incomplete and ineffective OQ plan could result in an interruption of service. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$1,000 for violation for 49 C.F.R. § 195.505(g).

Item 8 of the Notice proposed a civil penalty of \$10,000 for violation of 49 C.F.R. § 195.509(a), as Respondent failed to have any information that proved a written qualification program had been implemented. The written document Respondent provided as its written qualification program was a gas pipeline OQ plan. However, Respondent is a hazard liquid pipeline. Respondent did not contest the violation or the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for violation for 49 C.F.R. § 195.509(a).

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$12,000.

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

Failure to pay the \$12,000 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.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1B, 2, 3, 4, and 5 for violations of 49 C.F.R. §§195.505 and 195.509.

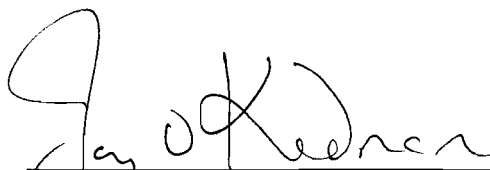
Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

1. Provide documentation that the covered task list has been reviewed by the four part test and ensure that any covered task performed on Respondent's pipeline system is addressed on the list. This correspondence shall be submitted within 30 days following your receipt of the Final Order.
2. Provide documentation that abnormal operating conditions have been assigned to each new task to stay consistent with the current format for covered tasks. This correspondence shall be submitted within 30 days following your receipt of the Final Order.
3. Provide a written OQ plan applicable to your hazard liquid pipeline and that addresses all requirements, including these specific areas:
 - i. Provision to address the use of training in initial qualification, or re-training of individuals whose qualification is in question;
 - ii. Provision to address the communication of covered task requirements and abnormal operating conditions to non-English speaking individuals;
 - iii. Provision to ensure evaluation of individuals whose performance of a covered task may have contributed to an accident and his performance status during the investigation;
4. Provide documentation of re-evaluation of all of your employees performing covered tasks. The documentation should also provide assurance that the associated abnormal operating conditions have been reviewed and personnel understand the need to recognize and react. Submit this documentation within 120 days following your receipt of the Final Order.
5. Documentation and evidence of the completion of these actions must be submitted to Ms. Linda Daugherty, Director, OPS, Southern Region, Pipeline and Hazardous Materials Safety Administration, 233 Peachtree Street, Suite 600, Atlanta, GA 30303.

The Director, OPS, Southern Region may grant an extension of time for compliance with any of the terms of this order for good cause. A request for an extension must be in writing and adequately justifies the reasons for the extension.

Failure to comply with this Final Order may result in the assessment of civil penalties of up to \$100,000 per violation per day, or in the referral of the case for judicial enforcement.

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.



for
Stacey Gerard
Associate Administrator
for Pipeline Safety

MAY 11 2006

Date Issued