

DEC 14 2011

Mr. John W. Gibson
President and CEO
ONEOK Partners, L.P.
100 West Fifth Street
Tulsa, OK 74103

Re: CPF No. 3-2011-1007

Dear Mr. Gibson:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$35,200. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety,
PHMSA
Mr. Dave Barrett, Director, Central Region, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED[71791000164202978903]

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

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In the Matter of)	
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)	
ONEOK Partners, L.P.,)	CPF No. 3-2011-1007
)	
)	
Respondent.)	
_____)	

FINAL ORDER

Between April 26-30, 2010, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an inspection of the facilities and records of the Guardian Pipeline in Channahon, Illinois. The 143-mile transmission pipeline is owned by ONEOK Partners, L.P., and operated by ONEOK Partners GP LLC (collectively, ONEOK or Respondent). The Guardian line transports natural gas from Joliet, Illinois, to Ixonia, Wisconsin.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated April 25, 2011, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that ONEOK had violated 49 C.F.R. § 192.709(c) and assessing a civil penalty of \$35,200 for the alleged violations.

ONEOK responded to the Notice by letter dated May 23, 2011 (Response). The company contested one of the items and offered additional information in support of its request to reduce the civil penalty. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, ONEOK did not contest the allegation in the Notice that it violated 49 C.F.R. § 192.709(c), as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c), which states:

¹ <http://www.gpl.oneokpartners.com/> (last visited September 6, 2011).

§ 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a) . . .

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c) by failing to produce annual inspection records for the inspection and testing of the domestic odorizer at the Channahon, Illinois compressor station for calendar years 2007, 2008, and 2009. Pursuant to §192.625 (f), a requirement of subpart L, operators are required to conduct periodic sampling of combustible gases to assure the proper concentration of odorant. ONEOK's procedure, entitled "Odorization of Gas," requires that odorizers be tested once a year and 49 C.F.R. § 192.709(c) requires that records of these tests be retained for five years or until the next test occurred. However, during the OPS inspection, Respondent could not produce test records for the D7i odorizer for calendar years 2007, 2008, and 2009.

In its Response, ONEOK acknowledged that it could not produce these records during the inspection, but contended that the odorizer was inspected and tested after the inspection and provided these records in its Response. Based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.709(c) by failing to maintain a record for five years for each test required by Subparts L and M.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c), as quoted above, by failing to produce inspection records for the annual testing of the discharge pressure transmitter located at the Channahon, Illinois compressor station. Pursuant to § 192.731(c), a requirement of subpart M, an operator is required to inspect and test each remote control shutdown device at intervals not exceeding 15 months, but at least once each calendar year, to determine that it functions properly. During the OPS inspection, ONEOK could not produce the required records for calendar years 2007, 2008, and 2009. ONEOK's operating procedure, "OKSops3.030.301 - Remote Control Shutdown Devices, Inspection, Maintenance, and Calibration," requires annual testing and calibration of station shutdown instrumentation and devices.

In its Response, ONEOK stated that it had indeed produced records for the required tests for calendar years 2008 and 2009. The company acknowledged that it could not locate the records for 2007, but stated that it believed the test had been completed.

I have reviewed the records submitted by ONEOK as part of its Response. Both records indicate that the tests were scheduled to start on June 5, 2008, and June 5, 2009, respectively; however, there is no detail in the record documenting the actual test or calibration. The purpose of retaining these records is to demonstrate that the tests did in fact occur. However, these records do not confirm the condition of the discharge pressure transmitter before or after the test.

The 2009 record lists the transmitter as “OK,” while the 2008 record is completely blank in terms of comments or a description of the condition of the device. Because these records cannot establish that the test was indeed conducted and that the device was determined to be in working order, I cannot withdraw this violation. In addition, as ONEOK has acknowledged, it could not produce the 2007 records either during the inspection or in its Response. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.709(c) by failing to maintain a record for five years for each test required by Subparts L and M.

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 an administrative 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. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent’s culpability; the history of Respondent’s prior offenses; the Respondent’s ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$35,200 for the violations in Items 1 and 2.

Item 1: The Notice proposed a civil penalty of \$17,600 for violation of 49 C.F.R. § 192.709(c), for Respondent’s failure to retain records of odorization tests for calendar years 2007, 2008, and 2009. As noted above, I found that the company was unable to produce records for the inspection and testing of the domestic odorizer at the Channahon compressor station for those years. The proposed civil penalty is based on the assessment factors listed in 49 C.F.R. § 190.225. I would note that the proposed civil penalty is lower than many other penalties on account of the fact that it was a records violation, as opposed to a more substantive violation. The evidence shows that ONEOK was cognizant of the requirement to maintain records for tests required under Subpart L and M but failed to do so. Respondent has not presented any valid basis for a reduction in the penalty amount. Accordingly, having reviewed the civil penalty assessment factors and the evidence presented in this case, I assess Respondent a civil penalty of \$17,600 for violation of 49 C.F.R. § 192.709(c).

Item 2: The Notice proposed a civil penalty of \$17,600 for violation of 49 C.F.R. § 192.709(c), for Respondent’s failure to retain records of the 2007, 2008, and 2009 testing of the discharge pressure transmitter at the Channahon compressor station. As noted above, I found that Respondent had inadequate or nonexistent records for those years. ONEOK requested a penalty reduction based on the fact that it was able to produce some form of records for 2008 and 2009. However, these records were so minimal that it was impossible to tell whether any testing was actually performed.

The proposed civil penalty is based on the assessment factors listed in 49 C.F.R. § 190.225. As noted in Item 1 above, the \$17,600 proposed civil penalty is lower than many other penalties on account of the fact that it was a records violation, as opposed to a more substantive violation. Despite its reduced gravity, the violation involves a discharge pressure transmitter that serves as the primary shut-down device at the compressor station. It is essential for safety that the transmitter be properly tested on a regular basis and that the tests are fully documented.

ONEOK was cognizant of the requirement to maintain records for tests required under Subpart L and M but failed to do so. Respondent has not presented any valid basis for a reduction in the penalty amount. Accordingly, having reviewed the civil penalty assessment factors and the evidence presented in this case, I assess Respondent a civil penalty of \$17,600 for violation of 49 C.F.R. § 192.709(c).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such 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. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Under 49 C.F.R. § 190.215, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment of 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 upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued