



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

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

**JAN - 3 2006**

Mr. Edward M. Nolan, Jr.  
Senior Vice President, Utilities Operations  
Equitrans, L.P.  
225 North Shore Drive  
Pittsburgh, PA 15212-5860

Re: CPF No. 1-2004-1001

Dear Mr. Nolan:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$86,000. It further finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. When the civil penalty is paid, this enforcement action will be closed. Your receipt of the Final Order constitutes service under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds  
Pipeline Compliance Registry  
Office of Pipeline Safety

Enclosure

cc: Mr. David K. Dewey, General Counsel, Equitrans, L.P.  
100 Allegheny Center Mall, Pittsburgh, PA 15212-5331

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

**DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, DC 20590**

\_\_\_\_\_  
**In the Matter of** )  
 )  
**Equitrans, L.P.,** )  
 )  
**Respondent** )  
\_\_\_\_\_ )

**CPF No. 1-2004-1001**

**FINAL ORDER**

On June 3–28 and October 21–25, 2002, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS) and West Virginia Public Service Commission conducted an on-site pipeline safety inspection of Respondent’s facilities and records in Pennsylvania and West Virginia. As a result of the inspection, the Director, Eastern Region, OPS, issued to Respondent, by letter dated January 22, 2004, 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 192 and proposed assessing a civil penalty of \$126,000 for the alleged violations. The Notice also proposed ordering Respondent to take measures to correct the alleged violations.

Respondent responded to the Notice by letter dated February 20, 2004. Respondent contested several of the allegations and requested a hearing. An informal hearing was initially scheduled for May 11, 2004, but postponed at Respondent’s request. Respondent submitted further written information on June 21, 2004, contesting additional allegations and requesting entry of a consent order. The request for a consent order was denied by letter dated September 29, 2004. An informal hearing was held on February 15, 2005 in Washington, D.C. After the hearing, Respondent supplemented the record by letter dated March 14, 2005.

**FINDINGS OF VIOLATION**

With respect to several violations alleged in the Notice, Respondent argued that there is no requirement that Respondent maintain on-site documentation to demonstrate compliance. Although there is no explicit requirement for documentation to be “on-site,” Respondent will be held liable for violating applicable safety regulations if Respondent cannot demonstrate compliance during the OPS inspection or in response to the Notice of Probable Violation.

**Item 1** in the Notice alleged Respondent violated 49 C.F.R. § 192.167(a)(3). This provision requires Respondent to have emergency systems to shutdown electrical facilities in the vicinity of gas headers and inside compressor buildings. The Notice alleged that Respondent's emergency shutdown systems at the Pratt and Rogersville stations did not shut down electrical power. Respondent did not contest this allegation. Accordingly, I find Respondent violated § 192.167(a)(3).

**Item 2** in the Notice alleged Respondent violated 49 C.F.R. § 192.453 by failing to have the designated corrosion control department receive and review field reports pertaining to corrosion leak repairs, pipe exposure examinations, and atmospheric and internal corrosion data. The Notice also alleged that Respondent's corrosion department was unaware of the number and location of leaks on the pipeline. Instead, the Notice alleged that Respondent had relevant corrosion information filed by secretaries at the Waynesburg office.

Section 192.453 requires Respondent to carry out corrosion control procedures under the direction of a person qualified in pipeline corrosion control methods. Under this requirement, Respondent must ensure that all phases of work performed during design, installation, operation and maintenance, including recordkeeping, in connection with corrosion control be carried out by, or under the direction of a person qualified in pipeline corrosion control methods.

At the hearing, Respondent acknowledged that the corrosion control department did not receive and review information pertaining to the corrosion control system. However, Respondent contended that it complied with § 192.453 by ensuring that persons responsible for performing work in the field were qualified in pipeline corrosion control methods and were aware of the procedures for ensuring integrity of the pipeline and cathodic protection systems. In its response, Respondent submitted a summary of field technician training and qualification records to show that the individuals in the field were qualified in pipeline corrosion control methods.

Although Respondent's personnel in the field may be qualified to implement its corrosion control procedures, Respondent has designated a corrosion control department to oversee the prevention of corrosion on Respondent's pipeline. Respondent's corrosion control department must be involved in the recordkeeping and review of information from the field that is directly relevant to the corrosion control system, such as leak surveys, repair reports, reports on the examination of exposed pipe, and atmospheric corrosion and internal corrosion data. Respondent acknowledged that the corrosion control department did not receive or review such information. Accordingly, I find Respondent violated § 192.453.

**Item 3A** alleged Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer its procedures with respect to public education. The Notice alleged that Respondent did not document that it had performed public educational programs.

Section 192.603(b) requires Respondent to keep records that are necessary for administering the procedures it has established to comply with subparts L and M, including § 192.616. Section 192.616 requires Respondent to have a continuing educational program to enable customers, the public, appropriate government organizations, and persons engaged in excavation related

activities to recognize gas pipeline emergencies. Documenting each public educational program ensures that Respondent will perform those programs in accordance with its procedures, including the established interval between programs. Accordingly, §§ 192.603(b) and 192.616 require Respondent to document public educational programs. Respondent has established an interval not to exceed three years for conducting educational programs.

In its response and at the hearing, Respondent contended that it complied with § 192.616 by conducting public education initiatives in 1997 and 2002. Respondent submitted evidence to demonstrate that Pennsylvania One Call, on behalf of Respondent, mailed education pamphlets to residents along Respondent's pipeline system in November 1997. Respondent demonstrated that it conducted another educational program in 2002. Although Respondent exceeded the three-year interval by two years, Respondent stated that it was not required to abide by that interval because it is not specified in the regulation.

Section 192.616 does not prescribe a specific interval for conducting educational programs, but requires Respondent to establish and follow an interval for conducting those programs.<sup>1</sup> Therefore, Respondent must conduct educational programs at the interval it has established. Respondent conducted an educational program in 1997, but did not conduct another program until 2002, thereby exceeding the three-year interval by two years. Accordingly, I find Respondent violated §§ 192.603(b) and 192.616.

**Item 3B** in the Notice alleged Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer its procedures with respect to abnormal operations. The Notice alleged that Respondent did not document the activation of relief devices and did not have procedures for field personnel to document the activation of relief devices and other abnormal operations.

Section 192.603(b) requires Respondent to keep records that are necessary for administering the procedures it has established to comply with subparts L and M, including § 192.605(c). Section 192.605(c) requires Respondent to have and follow procedures for responding to, investigating, and correcting the cause of each abnormal operation, including the operation of any safety device. Documenting abnormal operating conditions is necessary for Respondent to properly address each abnormal operating condition. Accordingly, §§ 192.603(b) and 192.605(c) require Respondent to document abnormal operating conditions.

In its response and at the hearing, Respondent contended that it complied with § 192.605(c) by including abnormal operating condition procedures in Respondent's operator qualification program. Respondent also stated that it keeps records to confirm that field personnel are qualified. At the hearing, OPS explained that "abnormal operating condition" in the context of operator qualification (subpart N) is not interchangeable with the more inclusive meaning of the term in the pipeline operation regulations (subpart L), including § 192.605(c). Furthermore, Respondent did not submit any evidence to demonstrate that it had documented the activation of

---

<sup>1</sup> See also 49 C.F.R. § 192.605(a): "Each operator shall prepare *and follow* for each pipeline, a manual of written procedures . . ." (emphasis added).

relief devices and other abnormal operations. Accordingly, I find Respondent violated §§ 192.603(b) and 192.605(c) as alleged in the Notice.

**Item 4** in the Notice alleged Respondent violated 49 C.F.R. § 192.613 by failing to have procedures for field personnel to report leaks, damage to facilities, security issues and other potential safety concerns to the main office for documentation and follow-up. In particular, the Notice alleged that notations were made in a cathodic protection test report that someone smelled gas, but there was no record that someone investigated the possible leak.

Section 192.613 requires Respondent to have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning unusual operating and maintenance conditions. In its response, Respondent submitted relevant sections of procedures and O&M standards to demonstrate compliance. The procedures submitted by Respondent concern safety-related conditions, failures, and encroachment. Respondent did not demonstrate procedures to address other unusual operating and maintenance conditions, such as missing signs, damage to security fencing and other security issues, which are observed by field personnel. Accordingly, I find Respondent violated § 192.613.

**Item 5** in the Notice alleged Respondent violated 49 C.F.R. § 192.625(b) by failing to demonstrate, by use of a completed class location study, that Respondent has odorized combustible gas in each transmission line in a Class 3 or Class 4 location. During the OPS inspection, Respondent indicated that a class location study was underway.

Section 192.625(b) requires Respondent to odorize combustible gas in a transmission line in a Class 3 or Class 4 location so that the gas is readily detectable by a person with a normal sense of smell. In its response, Respondent asserted that a completed class location study demonstrates that Respondent's pipeline system is odorized in accordance with § 192.625(b). Based on the class location study, which was completed after the OPS inspection, Respondent submitted a copy of its "Class Location and Odorization Map" at the hearing to demonstrate that combustible gas is odorized in each transmission line in a Class 3 or Class 4 location.

Although Respondent has demonstrated that its pipeline system is properly odorized, Respondent could not demonstrate that it used this type of information prior to the OPS inspection to properly select Class 3 and Class 4 areas for odorization in accordance § 192.625(b). Accordingly, I find Respondent violated § 192.625(b).

**Item 6** in the Notice alleged Respondent violated 49 C.F.R. § 192.731(c) by failing to inspect and test each emergency shutdown (ESD) trip station at Respondent's Pratt Compressor Station. The Notice alleged that Respondent had eight manual activation devices, but used only one device to trip the ESD system during testing.

Section 192.731(c) requires Respondent to inspect and test each remote control shutdown device at intervals not exceeding 15 months, but at least once each calendar year, to determine if it is functioning properly. In its response, Respondent asserted that it complied with § 192.731(c) by testing the ESD system at the appropriate interval. At the hearing, however, Respondent

acknowledged that it had not tested every manual activation device during those tests. In its post-hearing response, Respondent informed OPS that an audit of the Pratt Compressor Station (after the 2002 OPS inspection) determined that all eight manual trip stations were properly operational.

Although Respondent subsequently determined that each trip station was properly operational, it does not warrant withdrawing this violation, because Respondent failed to inspect and test each trip station at the maximum interval in accordance with § 192.731(c). Accordingly, I find Respondent violated § 192.731(c).

**Item 7** in the Notice alleged Respondent violated 49 C.F.R. § 192.736(b). Under this provision, Respondent must ensure that each gas detection and alarm system will detect and warn persons of a concentration of gas in air of 25 percent (25%) of the lower explosive limit (LEL). The Notice alleged that the gas detectors at Respondent's Pratt Compressor Station were set to alarm at 30% LEL. Respondent did not contest this allegation. Accordingly, I find Respondent violated § 192.736(b).

**Item 8** in the Notice alleged Respondent violated 49 C.F.R. § 192.736(c). This provision requires Respondent to conduct performance tests of gas detection and alarm systems and maintain those systems in proper functioning condition. The Notice alleged Respondent failed to test gas detection systems and fire detection systems at Respondent's Sleepy Hollow and Pennview Compressor Stations. Respondent did not have records to show that maintenance or performance tests had been conducted since the pipeline was purchased in 1997. Respondent did not contest this allegation. Accordingly, I find Respondent violated § 192.736(c).

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 \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations.<sup>2</sup> The Notice proposed a total civil penalty of \$126,000 for Items 1, 3A, 5, 6, 7, and 8.

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.

**Item 1** in the Notice proposed a civil penalty of \$15,000 for violating 49 C.F.R. § 192.167(a)(3). Failure to properly de-energize electrical systems during an emergency involving the release of

---

<sup>2</sup> The Pipeline Safety Improvement Act of 2002, Pub. L. No. 107-355, § 8(b)(1), 116 Stat. 2992, increased civil liability for violation of federal pipeline safety standards to \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

gas jeopardizes public safety as electrical systems can be a source of ignition. Although Respondent has now achieved compliance with respect to this violation, those actions do not justify reducing the civil penalty for the violation because Respondent has an affirmative obligation to achieve compliance. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,000 for the violation.

**Item 3A** in the Notice proposed a civil penalty of \$50,000 for violating 49 C.F.R. §§ 192.603(b) and 192.616. Failure to educate the public to recognize and report gas pipeline emergencies jeopardizes public safety by increasing the risk that gas leaks are not detected and reported as soon as possible. The Notice proposed a civil penalty of \$10,000 for each year of Respondent's failure to conduct an educational program from 1997 to 2002. However, the record shows that Respondent exceeded the maximum interval by only two years—not five. Accordingly, a proportional reduction to the civil penalty is warranted. Having reviewed the record and considered the assessment criteria, I assess Respondent a reduced civil penalty of \$20,000 for the violation.

**Item 5** in the Notice proposed a civil penalty of \$25,000 for violating 49 C.F.R. § 192.625(b). Respondent was unable to demonstrate that prior to the OPS inspection, it had completed a class location study for the purpose of selecting Class 3 and Class 4 areas for odorization. Failure to ensure that combustible gas in certain populated areas is odorized jeopardizes public safety if released gas cannot be readily detected by a person with a normal sense of smell. However, in light of the fact that Respondent was performing a class location study at the time of the OPS inspection, which has subsequently demonstrated that the system is properly odorized, I find a reduction in the civil penalty is warranted. Having reviewed the record and considered the assessment criteria, I assess Respondent a reduced civil penalty of \$15,000 for the violation.

**Item 6** in the Notice proposed a civil penalty of \$21,000 for violating 49 C.F.R. § 192.731(c). Respondent failed to inspect and test seven ESD activation devices at intervals not exceeding 15 months, but at least once each calendar year. Failure to properly test an ESD system and each remote emergency activation station poses a significant safety concern, especially for station employees if an emergency were to occur. In its post-hearing response, Respondent stated that an audit performed after the OPS inspection determined that all eight manual trip stations were functioning properly. Although Respondent has achieved compliance with respect to this violation, Respondent's post-inspection corrective action does not justify reducing the civil penalty, because Respondent performed the audit after the maximum interval for conducting those tests. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$21,000 for the violation.

**Item 7** in the Notice proposed a civil penalty of \$5,000 for violating 49 C.F.R. § 192.736(b). Respondent failed to ensure that the gas detection and alarm system at the Pratt Compressor Station detect and warn persons of a concentration of gas in air of not more than 25% LEL. Failure to properly calibrate gas detection systems jeopardizes public and employee safety by potentially allowing a hazardous accumulation of gas to occur without detection. Although Respondent has now achieved compliance with respect to this violation, those actions do not justify reducing the civil penalty for the violation because Respondent has an affirmative

obligation to achieve compliance. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000 for the violation.

**Item 8** in the Notice proposed a civil penalty of \$10,000 for violating 49 C.F.R. § 192.736(c). Respondent failed to test gas detection systems and fire detection systems at the Sleepy Hollow and Pennview Compressor Stations. Failure to test the performance of gas and fire detection systems jeopardizes public and employee safety by potentially allowing a hazardous accumulation of gas or a fire to occur without early detection. Although Respondent has now achieved compliance with respect to this violation, those actions do not justify a reduction in the civil penalty for the violation because Respondent has an affirmative obligation to achieve compliance. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000 for the violation.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$86,000**.

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-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the **\$86,000** 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 authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. 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 1, 2, 3B, 4, 5, 6, and 7 in the Notice. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under Chapter 601. The Director, Eastern Region, OPS has indicated that Respondent has taken the following actions specified in the Proposed Compliance Order:

Respondent submitted records from a system-wide audit of its compressor stations, identifying no ESD deficiencies. Respondent also modified and tested the ESD systems at the Pratt and Rogersville stations to ensure that non-critical electrical systems within the stations are de-energized when the ESD systems are activated.

Respondent submitted its revised standards, which provide for the routing of applicable paperwork through Respondent's corrosion department.



Respondent submitted its revised standards, which clarify the definition of abnormal operating conditions and improve the process for reporting. Respondent also revised its operator qualification program to emphasize abnormal operating conditions.

Respondent submitted its revised standards, which provide for the reporting of potential safety concerns by field personnel for further action and documentation.

Respondent submitted an odorization map that demonstrates Respondent's system is properly odorized.

Respondent submitted records from a system-wide audit of its compressor stations, which identified no deficiencies.

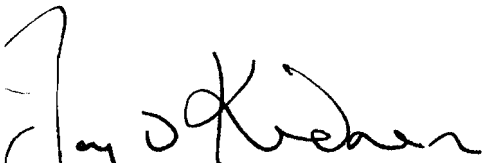
Respondent submitted the results of a system-wide gas detector review, which shows that the gas detectors at the compressor stations system-wide are set to alarm at 20% LEL.

Accordingly, since compliance has been achieved with respect to these violations, it is not necessary to include the compliance terms in this order.

**WARNING ITEM**

The Notice did not propose a civil penalty or corrective action for Item W1—failing to have sufficient line markers around the perimeter fence of Rogersville station. Respondent is warned that if it does not take appropriate action to correct this item, enforcement action may be taken if a subsequent inspection reveals a violation.

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. All other terms of the 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.

  
\_\_\_\_\_  
Stacey Gerard  
Associate Administrator  
for Pipeline Safety

for

**JAN - 3 2006**  
\_\_\_\_\_  
Date Issued