



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

JUN 29 2006

Mr. Robert L. Rose
President
Tampa Pipeline Limited Partnership
P.O. Box 35236
Sarasota, FL 34242

RE: CPF No. 2-2005-6020

Dear Mr. Rose:

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 \$6,000, 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 this 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: 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)	
Tampa Pipeline Limited Partnership,)	CPF No. 2-2005-6020
Respondent.)	

FINAL ORDER

On May 17-18, 2005, pursuant to 49 U.S.C. § 60117, a team of representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Southern Region, Office of Pipeline Safety (OPS) conducted an onsite safety inspection of Respondent's Operator Qualification (OQ) records and procedures at its field office in Tampa, Florida. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated September 21, 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 violated 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$6,000 for the alleged violations. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent failed to respond within 30 days after it had received the Notice. Respondent's failure to respond constitutes a waiver of Respondent's right to contest the allegations in the Notice and authorizes the entry of this Final Order.

FINDINGS OF VIOLATION

(Uncontested)

Respondent did not contest the alleged violations in Items 1, 2, 3, and 4 of 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 failed to identify thirty-five (35) covered tasks by April 27, 2001. (Item 1)

49 C.F.R. § 195.505(b) -- failure to have and follow a written qualification program with provisions to ensure through evaluation that individuals performing covered tasks are qualified, as written tests were not completed or graded for two employees recorded as qualified to perform "Task ID: 31 - Operate Pressure-Relieving Devices for Launching and Receiving Facilities." (Item 2)

49 C.F.R. § 195.505(f) -- failure to have and follow a written qualification program with management of change provisions to communicate changes that affect covered tasks to individuals performing those covered tasks; failure to incorporate changes in initial and subsequent evaluations, and failure to communicate the same information to contractors supplying individuals to perform covered tasks. Respondent failed to have a management of change section in its written OQ plan. (Item 3)

49 C.F.R. § 195.505(g) -- failure to have and follow a written qualification program with provisions to identify those covered tasks and the intervals at which evaluation of the individuals' qualification is needed, as Respondent failed to establish reevaluation intervals for covered tasks performed on pipeline system. (Item 4)

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 \$6,000 for violation of 49 C.F.R. §§ 195.505(a), 195.505(b), and 195.505(g).

Item 1 of the Notice proposed a civil penalty of \$2,000 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 failed to identify thirty-five (35) covered tasks by April, 2001. Respondent did not contest the violation or the civil penalty. The allegation of violation is uncontested. Therefore, the facts are considered admitted as alleged in the Notice and the violations as having been committed. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$2,000 for violation of 49 C.F.R. § 195.505(a).

Item 2 of the Notice proposed a civil penalty of \$2,000 for violation of 49 C.F.R. § 195.505(b), as Respondent failed to have and follow a written qualification program with provisions to ensure through evaluation that individuals performing covered tasks are qualified, as written tests were not completed or graded for two employees recorded as qualified to perform "Task ID: 31 - Operate Pressure-Relieving Devices for Launching and Receiving Facilities." Respondent did

not contest the violation or the civil penalty. The allegation of violation is uncontested. Therefore, the facts are considered admitted as alleged in the Notice and the violations as having been committed. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$2,000 for violation for 49 C.F.R. § 195.505(b).

Item 4 of the Notice proposed a civil penalty of \$2,000 for violation of 49 C.F.R. § 195.505(g), as Respondent failed to have and follow a written qualification program with established reevaluation intervals for covered tasks performed on pipeline system. Respondent did not contest the violation or the civil penalty. The allegation of violation is uncontested. Therefore, the facts are considered admitted as alleged in the Notice and the violations as having been committed. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$2,000 for violation for 49 C.F.R. § 195.505(g).

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$6,000.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-300), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this 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-300), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$6,000 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 1, 2, 3, and 4** for violations of 49 C.F.R. §§ 195.505(a), 195.505(b), 195.505(f), and 195.505(g).

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

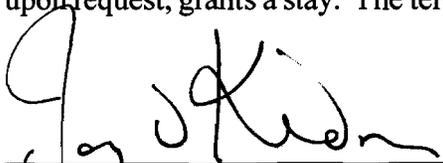
standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. Respondent must -

1. Submit documentation to show that the two employees in question are qualified to perform "Task ID: 31 - Operate Pressure-Relieving Devices for Launching and Receiving Facilities." Complete this item within 30 days of receipt of this Order.
2. Develop and submit a written qualification program with management change provisions to identify changes that affect covered tasks, that communicate changes that affect covered tasks to individuals performing those covered tasks, that incorporate changes in initial and subsequent evaluations, and that communicates the same information to contractors supplying individuals to perform covered tasks. Complete this item within 30 days of receipt of this Order.
3. Develop and submit documentation of a written qualification program with provisions that establish reevaluation intervals for covered tasks performed on pipeline system. Complete this item within 60 days of receipt of this Order.
4. Submit documentation of reevaluation of all employees performing covered tasks. Complete this item within 120 days of receipt of this Order.
5. Submit documentation and evidence of completion of these actions 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 justify 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. 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.

for


 Stacey Gerard
 Associate Administrator
 for Pipeline Safety

JUN 29 2006

 Date Issued