



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

JUL 29 2011

1200 New Jersey Ave., SE  
Washington, DC 20590

Mr. David Goodwin  
Vice President, Compliance and Operations Services  
Gulf South Pipeline Co., L.P.  
9 Greenway Plaza, Suite 2800  
Houston, TX 77046

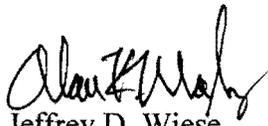
**Re: CPF No. 2-2009-1001**

Dear Mr. Goodwin:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$100,000, and specifies actions that need to be taken by Gulf South Pipeline Co., L.P. to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order have been completed, as determined by the Director, Southern Region, this enforcement action will be closed. 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,

*for:*   
Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, Pipeline Safety  
Mr. Wayne Lemoi, Director, Southern Region, PHMSA

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0075 9695]**

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

<b>In the Matter of</b>	)	
	)	
<b>Gulf South Pipeline Co., L.P.,</b>	)	<b>CPF No. 2-2009-1001</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

On August 4, 2008, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), initiated an investigation of an incident involving the pipeline system of Gulf South Pipeline Co., L.P. (Gulf South or Respondent). Gulf South is an interstate natural gas pipeline system that operates approximately 7,700 miles of pipeline in Texas, Louisiana, Mississippi, Alabama, and Florida.<sup>1</sup>

The investigation arose out of an incident that occurred at a compressor station near Harrisville, Mississippi (Harrisville Compressor Station) on August 2, 2008. During repair of a faulty limit switch, a flash fire resulted from the ignition of natural gas from a fuel gas blow down. As a result of the incident, a Gulf South employee sustained burns to his arm, neck, and mouth area and was hospitalized.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated January 15, 2009, 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 Gulf South violated 49 C.F.R. § 192.751 and proposed assessing a civil penalty of \$100,000 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

Gulf South responded to the Notice by letter dated March 20, 2009 (Response)<sup>2</sup> and requested a hearing on the proposed civil penalty and compliance order. A hearing was subsequently held via telephone conference on June 3, 2009, with an attorney presiding from the Office of Chief Counsel, PHMSA. At the hearing, Respondent was represented by in-house counsel.

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<sup>1</sup> See <http://www.gulfsouthpl.com/AboutUsGS.aspx>, last accessed June 24, 2011.

<sup>2</sup> Gulf South also submitted a Pre-hearing Letter (May 23, 2009), in which it set forth three issues it planned to address in the hearing.

## FINDING OF VIOLATION

At the hearing, Gulf South did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.751, which states:

**§ 192.751 Prevention of accidental ignition.**

Each operator shall take steps to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion, including the following:

- (a) When a hazardous amount of gas is being vented into open air, each potential source of ignition must be removed from the area and a fire extinguisher must be provided.
- (b) Gas or electric welding or cutting may not be performed on pipe or on pipe components that contain a combustible mixture of gas and air in the area of work.
- (c) Post warning signs, where appropriate.

The Notice alleged that Respondent violated 49 C.F.R. § 192.751 by failing to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion. Specifically, the Notice alleged that Gulf South's Operating and Maintenance (O & M) procedures required that "all necessary precautions [shall] be taken to prevent electrical arcing and static electricity charges in structures and restricted areas where there is a potential presence of gas."<sup>3</sup> The Notice further alleged that Respondent failed to exhaust gas from the fuel gas blow down to an area where the gas could be safely discharged and installed a non-insulated electrical component in the valve operator electrical pull box. As a result, when Gulf South's employee attempted to repair a faulty limit switch, a flash fire resulted from the interaction of gas escaping from a faulty fuel gas block valve and the improperly insulated electrical component.<sup>4</sup> Gulf South's employee sustained minor burns that required hospitalization.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.751 by failing to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion.

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<sup>3</sup> Section 3, Accidental Ignition Prevention, 3.2 Prevention, at 32.

<sup>4</sup> Respondent's Root Cause Investigation Report identified "the probably [sic] root cause of the flash fire [as] the vent line that exhaust[s] gas from the fuel gas blow down on Engine #3 did not extend to a location where gas may be discharged without hazard. Contributing factors were 1) electrical wiring installed that did not conform to the National Electrical Code, ANSI/NFPA 70, so far as that code is applicable, 2) faulty valve closure(s), and 3) non-conformance to existing procedures and job plan."

## 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 \$100,000 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$100,000 for Respondent's violation of 49 C.F.R. § 192.751, for failing to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion. In its response, Gulf South argues that the proposed penalty is excessive and warrants a reduction.

First, Respondent argues that PHMSA did not appropriately assess the criteria outlined in 49 C.F.R. § 190.225(a). Gulf South argues that the incident occurred "only due to the confluence of four separate causes [and that] redundant safety procedures . . . minimize[d] the risk of such an occurrence."<sup>5</sup> However, the evidence shows that at least some of the causal factors that led to this incident were replicated in at least one other compressor station under Respondent's control.<sup>6</sup> The vent lines exhausting fuel gas are one example of a systemic design flaw that poses a threat to Gulf South's pipeline system. The faulty wiring that provided the ignition source for the flash fire are also within Respondent's control and pose a systemic risk, if repeated elsewhere. I find Respondent's characterization of this incident as isolated to be misleading and conclude that the nature, circumstances, and gravity of this violation are sufficient to support the penalty, as assessed.

Second, Gulf South asserts that its safety history is devoid of incidents of this type and that its safety record favors a penalty reduction. In particular, Gulf South notes that it has never experienced a similar incident or "prior offense[s] of this nature."<sup>7</sup> PHMSA weighs an operator's entire safety record for five years preceding issuance of the NOPV.

Lastly, Gulf South reiterated the preventative and corrective actions undertaken since the incident to ensure system-wide safety. According to the Respondent, such actions "are and should be deemed good faith attempts to achieve complete compliance, both before and after the August 2, 2008 incident."<sup>8</sup> However, PHMSA considers only those efforts made prior to the

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<sup>5</sup> See July 6, 2009 Post-hearing Brief (Brief), at 2-3.

<sup>6</sup> Gulf South indicates that remedial measures have been taken.

<sup>7</sup> Brief, at 3.

<sup>8</sup> Brief, at 3.

discovery of an offense as a good faith measure. While Gulf South has undertaken a number of costly remedial measures, operators are charged with the lawful and safe operation of their systems. Where, as here, an injury occurred due to a violation of the pipeline safety regulations, operators are not charged with good faith for *ex post facto* actions.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$100,000 for violation of 49 C.F.R. § 192.751.

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.

Failure to pay the \$100,000 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 district court of the United States.

### COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 192.751. At the hearing, Respondent argued that the proposed compliance order was overly broad, as it required a system-wide review of all operational pull boxes and vent lines. Gulf South reasoned that the system-wide review should be limited to stations constructed in the last five years, as the faulty designs is limited to those facilities.<sup>9</sup> As for its older stations, Respondent proposed to review a representative sampling. The Director, Southern Region, has determined that a system-wide review must be conducted for all stations constructed in the last five years; for all other stations, a representative sampling will suffice.

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. 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 shall:

1. With respect to the violation of § 192.751 (**Item 1**), Respondent must review the vents and electric boxes at all compressor stations built within five years from the date of this order, including those stations built by Respondent's affiliates (Gulf

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<sup>9</sup> Gulf South conducted a "high level review of its system-wide facilities and determined that these two design conditions do not exist within Gulf South's vintage compressor stations." March 20, 2009 Letter, at 2.

Crossing Pipeline Company and Texas Gas Transmission). In addition, Respondent must conduct a representative sampling of all Gulf South's compressor stations that were built more than five years ago.

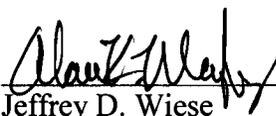
2. Gulf South Pipeline Company has 60 days after the receipt of the Final Order to complete the above item.
3. It is requested that Gulf South Pipeline Company maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Wayne Lemoi, Director, Southern Region, Pipeline and Hazardous Materials Safety Administration. It is further requested that costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and 2) total costs associated with replacements, additions, and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

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 sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> 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 this 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. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

**JUL 29 2011**

for:   
 Jeffrey D. Wiese  
 Associate Administrator  
 for Pipeline Safety

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 Date Issued