



U.S. Department  
of Transportation

**Research and  
Special Programs  
Administration**

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

MAY 10 2004

Mr. Lee Edwards  
President  
BP Pipelines North America, Inc.  
801 Warrenville Road  
Lisle, IL 60532

Re: CPF No. 2-2003-1001

Dear Mr. Edwards:

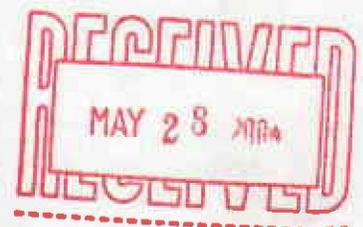
Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$15,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. 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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED



DEPARTMENT OF TRANSPORTATION  
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, DC 20590

In the Matter of )

BP Pipelines )  
North America, Inc. )

Respondent. )

CPF No. 2-2003-1001

FINAL ORDER

On October 22 - 23, 2002, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's facilities throughout Mississippi and records in Moss Point, Mississippi. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated January 29, 2003, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also contained warning items. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 192.736(c) and proposed assessing a civil penalty of \$20,000 for the alleged violation.

Respondent responded to the Notice by letter dated March 3, 2003 (Response). Respondent did not contest the allegations of violation but provided information concerning the corrective actions it has taken and requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the alleged violation in the Notice. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 192, as more fully described in the Notice:

49 C.F.R. § 192.736(c) -- failing to test the gas detection systems at the Moss Point and Sand Hill compressor stations for a period of two years. Respondent's safety manual indicated that these compressors were scheduled to be tested on a quarterly basis.

This finding of violation will be considered a prior offense 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 \$ 20,000 for violation of 49 C.F.R. § 192.736(c).

I have determined that Respondent has no financial circumstances that would prevent it from paying on the assessed amounts and that Respondent's ability to continue in business will not be significantly affected.

OPS inspectors stated that Respondent demonstrated good faith in responding to the violations alleged in the Notice, and that Respondent quickly initiated action to correct items identified in the Notice and in this Final Order. OPS staff have taken Respondent's good faith into account when proposing civil penalties in the Notice, as well as in post-Response recommendations.

The violated regulation addresses an issue of utmost importance to safeguarding Respondent's employees and prevent potential property damage due to fire or explosion. Scheduled testing at reasonable intervals is necessary to ensure that a working gas detection system is in place to prevent potentially disastrous consequences for Respondent and its employees.

In its Response, Respondent indicated that it tested its gas detection systems installed at the Moss Point and Sand Hill compressor stations on November 15, 2002. Respondent also visual and audible alarm systems at both compressor stations to warn persons entering the stations of gas build-up. I recognize Respondent's good faith in attempting to achieve compliance before receiving the Notice, and reduce the proposed civil penalty by \$5,000 in light of Respondent's prompt action.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$15,000.

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 \$15,000 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.

#### WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for the following Items 2 and 3 in the Notice. Respondent presented information in its Response showing that it has addressed the cited items. Respondent is again warned that if OPS finds a violation for any of these items in a subsequent inspection, enforcement action will be taken.

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.



Stacey Gerard  
Associate Administrator  
for Pipeline Safety

MAY 10 2004

Date Issued