



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

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

SEP - 1 2005

Mr. Charles Hodges
Senior Vice President
Southern Region
Georgia-Pacific, Crossett Paper Operations
P.O. Box 333
Crossett, AR 71635

RE CPF No 2-2005-1007

Dear Mr. Hodges:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation, assesses a civil penalty of \$5,000 and requires certain corrective action. The penalty payment terms are set forth in the Final Order. When the civil penalty is paid and the terms of the compliance order are 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

RECEIVED SEP 19 2005

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)

Georgia-Pacific, Crossett Paper Operations,)

Respondent.)

CPF No. 2-2005-1007

FINAL ORDER

On October 5-7, 2004, pursuant to 49 U S C § 60117, representatives of the Office of Pipeline Safety (OPS), Southern Region, conducted an inspection of Respondent's Operator Qualification Plan at its Crossett, Arkansas facility. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated January 31, 2005, a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice)¹. In accordance with 49 C F R § 190 207, the Notice proposed finding that Respondent had violated 49 C F R § 192 805, proposed assessing a civil penalty of \$5,000 for the alleged violation and proposed that Respondent take certain measures to correct the alleged violation.

Respondent responded to the Notice by letter dated, March 4, 2005 (Response). Respondent contested the allegation of violation and provided information concerning the corrective actions it has taken. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

Item 1 of the Notice alleged that Respondent violated 49 C F R § 192 805(b), by not having a written qualification program with provisions to ensure through evaluation that individuals performing covered tasks are qualified, as Respondent's evaluations do not address abnormal operating conditions by task or generically.

In response to the Notice, Respondent submitted a revised Operator Qualification Plan dated January 6, 2005, and a document addressing Operator Qualification (OQ) training of its personnel.

¹ This case, however, is no longer before RSPA for decision. Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to further the highest degree of safety in pipeline transportation and hazardous materials transportation. See, section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005) re-delegating the pipeline safety functions to the Administrator, PHMSA.

Respondent advised that it has fully implemented the items in the proposed compliance order. Respondent contended that it began to revamp its written program in April 2001 and changed the language in November 2004 to make certain all rules and regulations were adequately and completely covered in its OQ manual.

A review of Respondent's submission demonstrates that Respondent has established Abnormal Operating Conditions (AOC) for its OQ tasks and trained their personnel under its revised OQ Plan and AOCs. However, Respondent failed to demonstrate that its personnel has been qualified on the AOCs of the revised OQ Plan. By definition, a person is qualified when he/she can perform the task and recognize and react to abnormal operating conditions. Accordingly, I find that Respondent violated 49 C.F.R. § 192.805(b), as Respondent failed to demonstrate that individuals performing covered tasks are qualified to recognize and react to abnormal operating conditions.

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 in **Item 1** proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.805, as Respondent failed to have a written qualification program with provisions to ensure through evaluation that individuals performing covered tasks are qualified. Respondent argued that it had met the requirement of 49 C.F.R. § 192.805 and submitted its revised OQ Plan. Respondent also requested that the proposed civil penalty be eliminated or reduced as much of its operation and maintenance is performed by Centerpoint Energy (Centerpoint) under Centerpoint's qualification plan. Respondent contended that its personnel qualified under its OQ plan only perform limited tasks on the pipeline.

Although Respondent argued that Centerpoint performs much of its operation and maintenance, Respondent is ultimately responsible for its facility's compliance with pipeline safety regulations. While Respondent has demonstrated that it has established Abnormal Operating Conditions (AOC) for its OQ tasks and trained their personnel under its revised OQ Plan with AOCs, Federal regulations require that Respondent's personnel performing covered tasks are qualified and recognize and react to abnormal operating conditions. Respondent failed to demonstrate that its personnel has been qualified under its revised OQ Plan to respond to AOCs on its pipeline. An inadequate or incorrect response to an AOC by Respondent could result in a pipeline accident or increase the severity of accident consequences. Respondent has not provided any evidence that would justify

elimination of the proposed civil penalty Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000, for violation of 49 C F R §192 805(b)

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-120), 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-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P O Box 25082, Oklahoma City, OK 73125, (405) 954-8893

Failure to pay the \$5,000 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 an United States District Court

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 for violation of 49 C F R § 192 805(b) Respondent submitted information to show that it has addressed the first item in the Proposed Compliance Order

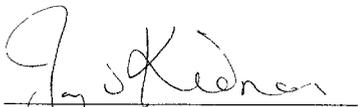
Under 49 U S C § 60118(a), each person who engages in the transportation of hazardous gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601 Pursuant to the authority of 49 U S C § 60118(b) and 49 C F R § 190 217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations Respondent must -

- 1 Submit documentation to show that each employee is qualified as per the revised Operator Qualification Plan and abnormal operating conditions Complete this item within 90 days of receipt of this Order
- 2 Submit documentation and evidence of completion of Item 1 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 justifies 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

SEP - 1 2005

Date Issued