



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

MAY 08 2014

Mr. Charles L. Dunlap
Chief Executive Officer
TransMontaigne Operating Company, LP
1670 Broadway, Room 3100
Denver, Colorado 80202

Re: CPF No. 3-2013-5025

Dear Mr. Dunlap:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken by TransMontaigne Operating Company, LP, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Central 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,

Jeffrey D. Wieser
Jeffrey D. Wieser
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Linda Daugherty, Director, Central Region, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

_____)
In the Matter of)

TransMontaigne Operating Company, LP,)

Respondent.)
_____)

CPF No. 3-2013-5025

FINAL ORDER

On October 1-5, 2012, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of TransMontaigne Operating Company, LP (TransMontaigne or Respondent), in Missouri and Arkansas. The inspection covered the company's Razorback Pipeline facilities in Missouri and Arkansas (Razorback Pipeline) and an examination of TransMontaigne records at the company's offices in Rogers, Arkansas. TransMontaigne is a terminal services company providing use, storage and transportation services for oil and gas distributors and marketers in multiple states, including Florida, Missouri, Arkansas, Texas, Louisiana, Alabama, Georgia, Mississippi, North Carolina, South Carolina and Virginia.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated August 19, 2013, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that TransMontaigne had violated 49 C.F.R. § 195.402, and ordering Respondent to take certain measures to correct the alleged violation.

TransMontaigne first responded to the Notice by letter dated October 29, 2013, and again by letter dated December 11, 2013 (collectively, Response). The company did not contest the allegation of violation but provided information concerning the corrective actions it had taken and submitted copies of its revised procedures for review by the Director. Respondent did not request a hearing and therefore has waived its right to one.

¹ TransMontaigne Operating Company, LP, About TLP, *available at* <http://www.transmontaignepartners.com/about-transmontaigne-limited-partners> (last accessed March 17, 2014).

FINDING OF VIOLATION

In its Response, TransMontaigne did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(c), which states, in relevant part:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. . . .

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) . . .

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(c) by failing to prepare and follow a manual of written procedures for conducting normal operations and maintenance procedures. Specifically, the Notice alleged that TransMontaigne had prepared written procedures in its operations and maintenance manual to evaluate company personnel but had failed to document periodic reviews of the work done to determine the effectiveness of its normal operation and maintenance procedures. During the inspection, TransMontaigne was able to provide documentation that the performance of individual personnel was regularly reviewed, but no systematic steps were taken to ensure that overall operations and maintenance procedures were effective.

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. § 192.402(c) by failing to prepare and follow a manual of written procedures for conducting normal operations and maintenance procedures.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 195.402(c). 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. The Director has indicated that Respondent has taken the following actions to address the cited violation:

1. With regard to **Item No. 1(i)** in the proposed compliance order, Respondent provided its amended "DOT Employee Appraisal Form" to ensure the proper review of work performed by company personnel to determine the effectiveness of operation and maintenance procedures. In addition, Respondent provided copies of its amended "Annual/Periodic Review & Procedure Request Form," which provided further opportunity for evaluation of the company's operation and maintenance procedures.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice for Item 1(i) are not included in this Order.

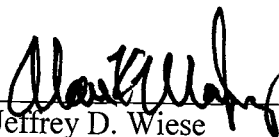
As for the remaining compliance terms, pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.402(c) (**Item 1(ii)** of the proposed compliance order), TransMontaigne must, within 90 days of receipt of this Final Order, review all operations and maintenance work performed on the Razorback Pipeline in the 180 days prior to the date of this Final Order. This review is to determine the effectiveness of its manual of written procedures required by § 195.402(a), any applicable standards, and the revised procedures developed as a result of the Notice. Any deficiencies or improvements identified as a result of this review will be corrected, and documentation of any corrective actions will be provided to the Director within 30 days of completing the review.
2. It is requested (not mandated) that TransMontaigne maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Linda Daugherty, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and 2) total cost associated with replacements, addition 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 \$200,000 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.

The terms and conditions of this Final Order [CPF No. 3-2013-5025] are effective upon service in accordance with 49 C.F.R. § 190.5.


for: Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

MAY 08 2014
Date Issued