

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

IN THE MATTER OF:

**Wal-Mart Stores, Inc.,

(Respondent)**

PHMSA Case No. 08-0058-CAR-CE¹
PHMSA-2008-0297

2008 OCT 30 P 3:45

DEPT. OF TRANSPORTATION
DOCKETS

COMPROMISE ORDER

I. Summary

Respondent: Wal-Mart Stores, Inc.
c/o Timothy Wiseman, Esq.
Scopelitis, Garvin, Light, Hanson & Feary
10 W. Market Street, Suite 1500
Indianapolis, Indiana 46204

No. of Violations: 20

Maximum Possible
Civil Penalty: \$1,050,000

Total Payment Due: \$360,000

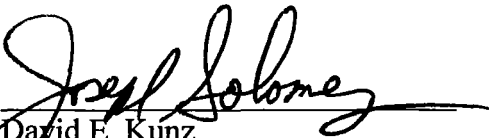
II. Finding

This matter comes before me after Wal-Mart Stores, Inc. (Respondent) and the Pipeline and Hazardous Materials Safety Administration agreed to a disposition of this case. I find Respondent committed the violations described in the Compromise Agreement (Agreement), which I have attached hereto. I have reviewed the Agreement

¹ Case No. 08-0058-CAR-CE collectively includes case numbers: 07-0003-SB-SW; 07-0004-SB-SW; 07-0007-SB-SO; 07-0008-SB-SO; 07-0009-SB-SO; 07-0009-SB-SW; 07-0011-SB-EA; 07-0012-SB-EA; 07-0029-SB-CE; 07-0030-SB-CE

and I find that the terms as outlined therein are in the best interest of justice. The Agreement, in its entirety, is incorporated and attached to this Order. All of the terms and conditions of the Agreement shall be given the full force and effect of an Order issued pursuant to the Federal hazardous materials transportation law, 49 U.S.C. § 5101, et seq., or the Hazardous Materials Regulations, 49 C.F.R. Parts 171 – 180.

It is so Ordered,


David E. Kunz
Chief Counsel
for Pipeline and Hazardous Materials Safety Administration

Date: 10/30/08

Attachments

CERTIFICATE OF SERVICE

This is to certify that on the _____ day of OCT 30 ~~2008~~ ²⁰⁰⁸, the undersigned served in the following manner the designated copies of this Order with attached addenda to each party listed below:

Wal-Mart Stores, Inc.
c/o Timothy Wiseman, Esq.
Scopelitis, Garvin, Light, Hanson & Feary
10 W. Market Street, Suite 1500
Indianapolis, Indiana 46204

Original Order with
Copy of Agreement
Certified Mail
Return Receipt Requested

Ryan Posten, Director
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Enforcement
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

One Copy (without
enclosures)
Via Electronic Mail

Kevin Boehne, Chief
Pipeline and Hazardous Materials Safety Administration
Central Region Office, PHH-43
2300 East Devon Avenue, Suite 478
Des Plaines, IL 60018-4696

One Copy (without
enclosures)
Via Electronic Mail

Shawn C. Wolsey, Attorney
Pipeline and Hazardous Materials Safety Administration
Office of Chief Counsel
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

One Copy
Personal Delivery

U.S. DOT Dockets
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
Room W12-140
Washington, D.C. 20590

One Copy
Personal Delivery

Ted Wilke, Associate Administrator
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Enforcement
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

One Copy (without
enclosures)
Via Electronic Mail

One Copy (without
enclosures)
Via Electronic Mail

OCT 30 2008

Bob Richard, Deputy Associate Administrator
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Enforcement
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Tonya Schreiber, Executive Director
Pipeline and Hazardous Materials Safety Administration
Office of Hazardous Materials Enforcement
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

One Copy (without
enclosures)
Via Electronic Mail



Willard Walker

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

IN THE MATTER OF:

**Wal-Mart Stores, Inc.,

(Respondent)**

PHMSA Case No. 08-0058-CAR-CE¹

COMPROMISE AGREEMENT

I. Parties

The Parties to this Compromise Agreement (Agreement) are:

Wal-Mart Stores, Inc. (“Respondent”), located in Bentonville, Arkansas,

and

The Pipeline and Hazardous Materials Safety Administration (“PHMSA”), a modal Administration of the United States Department of Transportation.

II. Authority/Jurisdiction

A. The Parties enter into this agreement under authority of 49 U.S.C. § 5123(e) and 49 C.F.R. § 107.327(a)(1).

B. For the Purposes of this Agreement, Respondent acknowledges:

(1) As a person who ships certain chemicals and other hazardous materials, Respondent is a regulated entity subject to the Hazardous Materials Regulations (HMR) and to the jurisdiction of (a) the Secretary of Transportation, (b) the PHMSA’s Associate Administrator for Hazardous Materials Safety, and (c) PHMSA’s Office of Chief Counsel (49 U.S.C. § 5103(b) and 49 C.F.R. § 107.301); and

¹ Case No. 08-0058-CAR-CE collectively includes case numbers: 07-0003-SB-SW; 07-0004-SB-SW; 07-0007-SB-SO; 07-0008-SB-SO; 07-0009-SB-SO; 07-0009-SB-SW; 07-0011-SB-EA; 07-0012-SB-EA; 07-0029-SB-CE; 07-0030-SB-CE

(2) Although the parties have agreed to a compromise of this proceeding, such compromise does not constitute an admission on the part of the Respondent that it committed the alleged violations found by PHMSA and/or an agreement with the facts alleged by PHMSA; PHMSA has sufficient proof to show, by a preponderance of the evidence, Respondent's violation of the Federal regulations listed in Section V below; and

(3) Respondent received proper notice of PHMSA's actions in the proceeding.

III. Background

A. On November 28-30, 2006, December 4, 2006, December 6, 2006 and December 12, 2006, after being notified by the United Parcel Service of a fire incident that occurred in Galesburg, Illinois on November 1, 2006, Investigators from PHMSA's Office of Hazardous Materials Enforcement (OHME) conducted compliance inspections at Respondent's facilities, located in Bentonville, Arkansas; Opelousas, Louisiana; LaGrange, Georgia; Fort Pierce, Florida; Shelby, North Carolina; Woodland, Pennsylvania; Pottsville, Pennsylvania; Coldwater, Michigan; and Red Bluff, California, pursuant to 49 U.S.C. § 5121 and 49 C.F.R. § 107.305. PHMSA's Investigators reported twenty (20) alleged violations of the HMR. After the conclusion of the compliance inspections, PHMSA's Investigators contacted and interviewed the Respondent, and then conducted "exit briefings" during which the Investigators discussed the alleged violations and the required corrective actions with Respondent's representatives.

B. Upon completion of the compliance inspections, the Investigators submitted reports to the Chief of OHME's Central Region, who reviewed the reports for accuracy and sufficiency of evidence. Based on that review, the Region Chief referred the matter to PHMSA's Assistant Chief Counsel for Hazardous Materials Safety thereby recommending the initiation of a civil penalty action against Respondent pursuant to 49 C.F.R. § 107.311.

C. Based on a preliminary assessment of the apparent nature, circumstances, extent, and gravity of the probable violations, as set forth in the Investigator's reports, on May 29, 2008, an attorney from PHMSA's Hazardous Materials Safety issued a Notice of Probable Violation (NOPV) alleging twenty (20) violations of the HMR and proposing a \$360,000 civil penalty, which included a \$90,000 reduction for corrective actions taken by Respondent.

IV. Basis of Agreement

A. Reply to Notice. On June 18, 2008, after seeking and receiving a thirty day extension, Respondent submitted a timely reply to the Notice and requested an informal conference.

B. Corrective Action. In letters dated December 22, 2006, December 28, 2006, January 8, 2007, January 11, 2007, January 15, 2007, and August 1, 2008, Respondent submitted evidence of corrective actions it had taken in response to the exit briefings. The following is a summary of all of Respondent's corrective actions.

In its December 22, 2006 (re: Case No. 07-0003-SB-SW), December 28, 2006 (re: Case No. 07-0004-SB-SW), December 28, 2006 (re: Case No. 07-0007-SB-SO), December 28, 2006 (re: Case No. 07-0008-SB-SW), December 28, 2006 (re: Case No. 07-0009-SB-SO), January 11, 2007 (re: Case No. 07-0011-SB-EA), January 8, 2007 (re: Case No. 07-0012-SB-EA), January 15, 2007 (re: Case No. 07-0029-SB-CE), and January 15, 2007 (re: Case No. 07-0030-SB-CE) letters, Respondent described actions it has taken to correct the violations alleged in this Notice and to prevent future violations of the HMR. Respondent stated: that "as a result of your inspection, we discovered that our control measures regarding the shipment of dangerous goods did not cover the unforeseen instance of our truck maintenance garage (TMG) parts associates processing warranty returns containing hazardous materials. We regret the omission and are gratified to have the opportunity to adjust our policies to address this occasion." Respondent further explained that "Wal-Mart purchased a large number of GPS units to use with its trailers. Due to a defective processor, the GPS units did not utilize the appropriate power source and ran on the individual battery back-ups. After a few months, these 10-year life cycle batteries died. The manufacturer of the GPS units replaced the defective processor and made arrangements for the exchange of hundreds of depleted batteries with new ones."

Respondent further stated: "In order to address the identified gaps, we have revised our training materials by specifically requiring that any return shipments of depleted or partially depleted electric storage batteries are dangerous goods shipments to be handled by the distribution center returns/claims associate only. In addition, we have educated our TMG associates, in writing and orally, as follows: (1) these batteries require shipment as hazardous materials; (2) in accordance with our policies, any hazardous materials intended for shipment must be handled, packaged and shipped by the returns/claims associate; and, (3) the TMG parts associate must forward the batteries to the returns/claims associate and refrain from packaging, securing or otherwise participating in the shipping of depleted electric storage batteries or other hazardous materials." "All returns claims associates have the training required by 49 C.F.R. Ch. 1, Section 172, Subpart H. It will be their responsibility to ensure fully compliant transportation of these batteries. Provided the batteries remain securely wrapped in their original hard plastic sheath, the returns/claims associate will write "non-spillable" on the box or use pre-printed boxes from the third party recycler. If for some reason the batteries do not meet the specifications of Section 173.159(a)-(c), the returns/claims associate will arrange for other compliant transportation."

Respondent sent an internal memorandum, dated December 20, 2006, stopping the shipments of the batteries after they became aware of the problem from UPS. Respondent has also provided copies of the following documents: EnerSys MSDS dated May 7, 2004; Handling Hazardous Materials Completing Shipping Papers guidebook;

Wal-Mart Private Fleet Hazard Communication Standard Right to Know Training book; Copy of Security Plan page; Handling Hazardous Materials training course; and Hazardous Materials Security Awareness training course.

Regarding Case No. 07-0009-SB-SW, Respondent provided copies of the Hazardous Materials Training Acknowledgement Forms and Certificates of Completion with both the date and Instructors name for Elton Wright, and Trudy Landry.

In its August 1, 2008 correspondence, Respondent reiterated procedures it has put into place to ensure that these violations will not be repeated. Respondent provided:

a) a copy of the December 20, 2006 memorandum restricting the shipment of the batteries;

b) training certifications for hazmat employees who arrange the transport of batteries- (Michael Ortego and Raymond McBride, Opelousas, LA on 6/1/07 and 6/5/07 respectively; Richard Wright, Jr., Kenneth Fuller, Bob Appleby, Jess Costulis, Lonnie McCoy, Kevin Bowen, Josh Stephens, Daniel Walker, Jamey Doyle, Willie Anderson, Linda Dieck, Helen Rosenbohm, Don Perkins, Mart Torline, Laverne Reimer, Tom Leur, George Hart, Don DeKeno, drivers on 12/14/06; Nicole McDowell-Meyers, Woodland, PA on 6/30/06; Sarah McClure, Brian Barnes, and Paul Miller, Coldwater, MI on 5/25/07; Deron Atwell and Colleen Lipani, Red Bluff, CA on 6/8/07);

c) a copy of its revised policy requiring trained return claims associates only to arrange for the transport of the batteries.

Respondent was immediately proactive in its corrective action and fully cooperated with PHMSA.

PHMSA finds that the foregoing corrective actions have corrected the violations outlined in the Notice.

C. Finances. Respondent has not requested mitigation based on finances.

D. Informal Conference. On September 18, 2008, the parties held an informal conference in Bentonville, Arkansas.

V. Compromise Penalty Amount

Viol. No.	HMR Violation	NOPV Penalty Amount	Compromise Penalty Amount
1	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as "Nonspillable" or	\$100,000	\$100,000

	“Nonspillable Battery”, while causing substantial destruction to property, in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)		
2	Offering for transportation in commerce, a hazardous material, Batteries, wet, non-spillable, 8, UN2800, PGIII, in fiberboard boxes, when the batteries had not been securely packaged to protect against short circuits, in violation of 49 CFR, sections 173.22(a), 173.24(b)(2) and 173.159(d)(1). (Shipment of improperly packaged Hazardous Material)	\$6,000	\$6,000
3	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as “Nonspillable” or “Nonspillable Battery”, in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)	\$50,000	\$50,000
4	Offering for transportation in commerce a quantity of Packing Group III hazardous material, batteries, wet, non-spillable, 8, UN2800, when it had not developed and adhered to a security plan, in violation of 49 C.F.R. §§ 171. 2(e), 172.800(a), 172.802(b).	QC	QC
5	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, and security awareness training were not conducted and records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$1,400	\$1,400
6	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as “Nonspillable” or “Nonspillable Battery”, in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared	\$15,000	\$15,000

	Hazardous Material)		
7	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, safety and security awareness training were not conducted and records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$2,100	\$2,100
8	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as "Nonspillable" or "Nonspillable Battery", in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)	\$15,000	\$15,000
9	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, safety and security awareness training were not conducted and records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$2,100	\$2,100
10	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as "Nonspillable" or "Nonspillable Battery", in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)	\$15,000	\$15,000
11	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, safety and security awareness training were not conducted and records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$1,400	\$1,400
12	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the	\$15,000	\$15,000

	requirements of 49 C.F.R. § 173.159(d) by not marking the package as “Nonspillable” or “Nonspillable Battery”, in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)		
13	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, safety and security awareness training were not conducted and records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$1,400	\$1,400
14	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, safety and security awareness training were not conducted and complete records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$2,100	\$2,100
15	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as “Nonspillable” or “Nonspillable Battery”, in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)	\$50,000	\$50,000
16	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as “Nonspillable” or “Nonspillable Battery”, in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)	\$50,000	\$50,000
17	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not	\$15,000	\$15,000

	marking the package as "Nonspillable" or "Nonspillable Battery", in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)		
18	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, safety and security awareness training were not conducted and records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$2,100	\$2,100
19	Offering for transportation in commerce a hazardous material, batteries, wet, non-spillable, 8, UN2800, III, without hazmat shipping papers, package markings, or labels, and failing to follow the requirements of 49 C.F.R. § 173.159(d) by not marking the package as "Nonspillable" or "Nonspillable Battery", in violation of 49 C.F.R. §§ 171.2 (a), (b) & (e), 172.200, 172.300, 172.400, 172.500, 173.159(d). (Shipment of Undeclared Hazardous Material)	\$15,000	\$15,000
20	Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when DOT general awareness, function specific, safety and security awareness training were not conducted and records were not maintained, in violation of 49 CFR §§ 171.2(a-e), 172.702(a), 172.704(a)(1)-(5) and 172.704 (d).	\$1,400	\$1,400
TOTAL	-----	\$360,000	\$360,000

VI. Factors Considered in Determining the Civil Penalty

In determining the amount of a civil penalty, PHMSA considered the following statutory criteria (49 U.S.C. § 5123(c)):

- (1) The nature, circumstances, extent, and gravity of the violation;
- (2) The degree of culpability and history of prior violations;
- (3) Respondent's size;
- (4) Respondent's ability to pay the penalty and its ability to continue to do business;
- and
- (5) Other matters as justice may require.

Documentation of Respondent's corrective actions for these violations justifies assessing a civil penalty of \$360,000.00.

VII. Terms and Conditions

A. Respondent agrees to pay the sum of \$360,000.00 as full satisfaction of the civil penalty proposed in the NOPV.

B. Payment. Respondent agrees to pay \$360,000.00, as full satisfaction of the civil penalty proposed in the Notice in the following manner:

Respondent must pay \$360,000.00 within thirty (30) days of the ORDER, which the Chief Counsel will issue *after* the Respondent signs and returns this Agreement.

C. By entering into this agreement, Respondent waives any right:

(1) to present further written or oral explanations, information, and arguments in this matter;

(2) to Administrative appeal; and

(3) to seek judicial review or otherwise contest or challenge the validity of this Agreement or the NOPV associated with this case.

D. This Agreement resolves only the violations noted in PHMSA Case Nos. 08-0058-CAR-CE, 07-0003-SB-SW; 07-0004-SB-SW; 07-0007-SB-SO; 07-0008-SB-SO; 07-0009-SB-SO; 07-0009-SB-SW; 07-0011-SB-EA; 07-0012-SB-EA; 07-0029-SB-CE; 07-0030-SB-CE as referenced in Section V of this agreement and in the NOPV. In the event Respondent commits any future violations of the Federal Hazardous Material Transportation Law, 49 U.S.C. § 5101 *et seq.*, the HMR, or any exemption, or order issued thereunder this violation shall constitute a prior violation under 49 U.S.C. § 5123.

E. After Respondent signs and returns this Agreement, PHMSA's representative will present the Agreement to the Chief Counsel requesting that the Chief Counsel adopt the terms of this Agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of this Agreement constitute an offer of compromise until accepted by the Chief Counsel.

F. After issuance of the Compromise Order, Respondent must pay the civil penalty in accordance with the terms of this Agreement. Upon receipt of Respondent's final payment, the Chief Counsel will close this case with prejudice to the Respondent (49 C.F.R. § 107.327(a)(1)(ii)).

VIII. Miscellaneous Provisions

A. By signing this Agreement, Respondent or its representative warrants to have read the agreement and understood its terms and conditions.

B. The individuals signing on behalf of the Respondent and PHMSA represent that they are authorized to sign and have authority to enter into this Agreement.

C. Respondent's failure to sign and return this agreement within thirty (30) days from its receipt will result in the withdrawal of this Agreement and the Chief Counsel will issue an Order pursuant to 49 C.F.R. §§ 107.317(d).

D. Respondent must return the signed Agreement to:

Shawn C. Wolsey,
Office of the Chief Counsel
United States Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, S.E.
PHC-10, E26-202
Washington, D.C. 20590-0001

Respondent

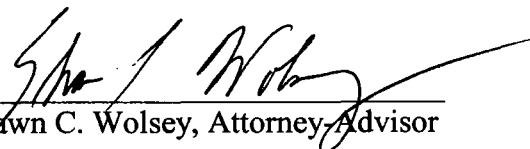
Federal Tax ID Number¹: 71-04151888

By: 
Signature

Date: 10/20/08

Chris Sulzmeier, Senior Vice President, Transportation
Printed Name, Title

Pipeline and Hazardous Materials Safety Administration

By: 
Shawn C. Wolsey, Attorney Advisor

Date: 10/23/08

¹ The Taxpayer Identifying Number is required by 31 U.S.C. § 7701(c)(3). PHMSA will use this number for purposes of collecting and reporting on any delinquent amounts arising out of this agreement.

ADDENDUM A

Payment Information

Respondent must pay a total civil penalty of **\$360,000.00** in accordance with the following:

Due date

Respondent must pay the civil penalty within 30 days of the date of the ORDER.

Payment Method

Respondent must pay the civil penalty by one of the following: (1) wire transfer, (2) certified check or money order, or (3) credit card via the Internet.

(1) Wire Transfer.

Detailed instructions for sending a wire transfer through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury are contained in the enclosure to this Order. Please direct questions concerning wire transfers to:

Financial Operations Division
Attn: Linda Lavalley
Federal Aviation Administration
Mike Monroney Aeronautical Center
AMZ-341
P.O. Box 25082
Oklahoma City, OK 73125
Telephone (405) 954-8893.

Interest and Administrative Charges

If Respondent pays the civil penalty by the due date, no interest will be charged. If Respondent does not pay by that date, the FAA's Financial Operations Division will start collection activities and may assess interest, a late-payment penalty, and administrative charges under 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 49 C.F.R. § 89.23.

The rate of interest is determined under the above authorities. Interest accrues from the date of this Order. A late-payment penalty of six percent (6%) per year applies to any portion of the debt that is more than 90 days past due. The late-payment penalty is calculated from the date Respondent receives the Order.

Treasury Department Collection

FAA's Financial Operations Division may also refer this debt and associated charges to the U.S. Department of Treasury for collection. The Department of the Treasury may offset these amounts against any payment due Respondent (31 C.F.R. § 901.3).

Under the Debt Collection Act (see 31 U.S.C. § 3716(a)), a debtor has certain procedural rights prior to an offset. You, as the debtor, have the right to be notified of: (1) the nature and amount of the debt; (2) the agency's intention to collect the debt by offset; (3) the right to inspect and copy the agency records pertaining to the debt; (4) the right to request a review within the agency of the indebtedness and (5) the right to enter into a written agreement with the agency to repay the debt. This Order constitutes written notification of these procedural rights.

**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION**

1. <u>RECEIVER'S ABA NO.</u> 021030004	2. <u>TYPE SUBTYPE</u> (provided by sending bank)
3. <u>SENDING BANK ARB NO.</u> (provided by sending bank)	4. <u>SENDING BANK REF NO.</u> (provided by sending bank)
5. <u>AMOUNT</u>	6. <u>SENDING BANK NAME</u> (provided by sending bank)
7. <u>RECEIVER NAME:</u> TREAS NYC	8. <u>PRODUCT CODE</u> (Normally CTR, or sending bank)
9. <u>BENEFICIAL (BNF)- AGENCY LOCATION CODE</u> BNF=/AC-69140001	10. <u>REASONS FOR PAYMENT</u> <i>Example: PHMSA Payment for Case #/Ticket</i>

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this nine digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE:** **\$10,000.00**

Block #7 - RECEIVER NAME- "TREAS NYC." Ensure the sending bank enters this abbreviation, which must be used for all wire transfer to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/AC-69140001"
Ensure the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation

Block #10 - REASON FOR PAYMENT – "AC-Payment for PHMSA Case#" To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number."

Note: - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer, the General Accounting Division at (405) 954-8893.