



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

JAN 17 2008

VIA CERTIFIED MAIL AND FACSIMILE TO: (281) 293-3024

Ms. Meg A. Yeage
President
ConocoPhillips Pipe Line Co.
600 N. Dairy Ashford
Houston, TX 77079

Re: CPF No. 4-2008-5002H

Dear Ms. Yeage:

Enclosed is a Notice of Proposed Corrective Action Order (Notice) issued in the above-referenced case. The Notice proposes that you take certain measures with respect to your pipeline that failed on January 9, 2008. Service is being made by certified mail and facsimile. Your receipt of this Notice constitutes service of that document under 49 C.F.R. § 190.5.

We look forward to a successful resolution of concerns arising out of the recent pipeline failure to ensure pipeline safety. Please direct any questions on this matter to me at (713) 272-2859.

Sincerely,

for:
R. M. Seeley
Director, Southwest Region

Enclosures: *Notice of Proposed Corrective Action Order*
49 C.F.R. § 190.233

**DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
SOUTHWEST REGION
HOUSTON, TX 77074**

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| In the Matter of |) | |
| |) | |
| ConocoPhillips Pipe Line Co., |) | CPF No. 4-2008-5002H |
| |) | |
| Respondent |) | |
| |) | |

NOTICE OF PROPOSED CORRECTIVE ACTION ORDER

Background and Purpose

On January 9, 2008, a failure occurred on a hazardous liquids pipeline operated by ConocoPhillips Pipe Line Company (Respondent) near Plains, Texas, resulting in the release of crude oil. The cause of the failure has not yet been determined. Pursuant to 49 U.S.C. § 60117, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has initiated an investigation of the accident.

PHMSA issues this Notice of Proposed Corrective Action Order, in accordance with 49 U.S.C. § 60112, notifying Respondent of the preliminary findings of the investigation, and proposing that Respondent take corrective measures, with respect to the pipeline that failed, to protect the public, property, and the environment from potential hazards associated with the failure.

Preliminary Findings

- At approximately 2:15 a.m. local time on January 9, 2008, Respondent's 12-inch WA pipeline from Odessa, Texas to Borger, Texas (hereafter "the affected pipeline") failed near the town of Plains, Texas (Yoakum County). The failure occurred at mile post (MP) 83.5. The accident was reported to the National Response Center (NRC Report No. 859187).

- Respondent has reported to PHMSA that the failure resulted in the release of approximately 700 barrels of crude oil. No fires, injuries, fatalities, or evacuations were reported in connection with the pipeline accident. The release of crude oil impacted soil in the area of the failure.

- Respondent detected the accident at its control center and initiated a shutdown. Respondent closed block valves upstream and downstream of the failure site (valves at MP 80 and MP 98), isolating approximately 18 miles of pipeline. Respondent purged the isolated section of product and removed and replaced a 43-foot section of pipe, including the point of failure. Respondent plans to send the removed section of pipe to a metallurgist for analysis. Respondent returned the 18-mile section to service at a reduced operating pressure on January 10, 2008.
- The cause of the failure has not yet been determined. A preliminary visual examination of pictures taken at the failure site indicates a failure approximately 30 inches in length along the longitudinal weld seam.
- The affected pipeline is approximately 290 miles in length. The pipeline runs from Odessa Pump Station in Ector County, Texas, to Wasson Pump Station in Yoakum County, Texas (MP 80). From Wasson Pump Station the pipeline travels to Slaughter Pump Station in Cochran County, Texas (MP 110). The failure occurred at MP 83.5 between the Wasson and Slaughter Pump Stations. The 18-mile section that was isolated following the failure is between Wasson Pump Station (MP 80) and a block valve at MP 98. From Slaughter Pump Station, the pipeline continues to the Borger Refinery in Hutchinson County, Texas.
- Respondent's pipeline maps indicate that the pipeline is not routed near any heavily populated areas, state or local highways, or unusually sensitive environmental areas.
- The release of crude oil contaminated soil in the area surrounding the failure site. The environmental impact has not yet been determined.
- According to Respondent, the pipe that failed is 12-inch nominal diameter, 0.250-inch wall thickness, Grade 45000, electric flash welded (EFW) pipe with somastic coating, manufactured by A.O. Smith and constructed in 1948. The pipeline is cathodically protected. Vintage pipe manufactured by A.O. Smith has historically been susceptible to seam failure.
- According to Respondent, the established maximum operating pressure of the pipe that failed is 1255 psig, established in 2005 by a hydrostatic test. Respondent has calculated that the actual operating pressure at the failure site immediately prior to the failure was 1088 psig.
- Respondent has reported that the pipeline has not had any previous significant discharge events that resulted in a failure analysis or an enforcement action by PHMSA.
- Respondent has reported that it performed an inline inspection of the affected pipeline in 2004 using a magnetic flux leakage tool.

Allegation of Hazardous Condition and Right to Hearing

Section 60112 of Title 49, United States Code, provides for the issuance of a corrective action order, after reasonable notice and the opportunity for a hearing, requiring corrective action, which may include the suspended or restricted use of a pipeline facility, physical inspection, testing, repair, replacement, or other action, as appropriate. The basis for making the determination that a pipeline facility is hazardous, requiring corrective action, is set forth both in the above-referenced statute and 49 C.F.R. § 190.233, a copy of which is enclosed.

After evaluating the foregoing preliminary findings of fact and considering the age of the pipe involved, the manufacturer, the hazardous nature of the product transported, the pressure required for transporting such product, and the ongoing investigation to determine the cause of the failure, it appears that the continued operation of the affected pipeline without corrective measures would be hazardous to life, property, and the environment.

Accordingly, PHMSA issues this Notice of Proposed Corrective Action Order to notify Respondent of the agency's intent to issue a corrective action order and to propose that Respondent take measures specified herein to protect the public, property, and the environment.

Response to this Notice

Respondent may request a hearing on this Notice, to be held as soon as practicable, by notifying the Director, Southwest Region, PHMSA, 8701 South Gessner Suite 1110, Houston, TX 77074 in writing within 10 days of service of this notice. Failure to submit such written notification waives the opportunity for a hearing and allows the Associate Administrator for Pipeline Safety to proceed to determine whether or not a corrective action order is required in accordance with 49 C.F.R. § 190.233. If a hearing is requested, it will be held telephonically or in-person in Houston, Texas, on a date that is mutually convenient to Respondent and PHMSA.

As soon as practicable after the conclusion of a hearing, or if no hearing is requested, the Associate Administrator for Pipeline Safety will determine whether or not a corrective action order is required. If the Associate Administrator finds the facility is or would be hazardous to life, property, or the environment, the Associate Administrator shall issue a corrective action order in accordance with 49 C.F.R. § 190.233. If the Associate Administrator does not find the facility is or would be hazardous to life, property, or the environment, the Associate Administrator shall withdraw the allegation of the existence of a hazardous condition contained in this Notice, and promptly notify Respondent in writing.

Proposed Corrective Action

Pursuant to 49 U.S.C. § 60112 and 49 C.F.R. § 190.233, PHMSA proposes to issue to ConocoPhillips Pipe Line Company a corrective action order incorporating the following remedial requirements with respect to the affected pipeline:

1. Establish a reduced maximum operating pressure that does not exceed 80 percent of the operating pressure at the failure site immediately prior to the January 9, 2008 failure.

Specifically, the reduced maximum operating pressure at the failure site may not exceed 870 psig. Further, all pump stations on the affected pipeline that were operating above 870 psig at the time of the failure must reduce their maximum operating pressures to 870 psig. All pump stations that were operating below 870 psig at the time of the failure must set their maximum operating pressures to the pressures that they were operating at the time of the failure. These pressure restrictions will remain in effect until written approval to increase the pressure or return the pipeline to its pre-failure operating pressure is obtained from the Director.

2. Within 30 days after an Order is issued, complete mechanical and metallurgical testing and failure analysis of the failed pipe. The testing and analysis shall be completed as follows:
 - (A) When handling and transporting the failed pipe section and other evidence from the failure site, document the chain-of-custody;
 - (B) Obtain the Director's prior approval of the mechanical and metallurgical testing protocols, including approval of the testing laboratory;
 - (C) Prior to commencing the mechanical and metallurgical testing, provide the Director with the scheduled date, time, and location of the testing to allow a PHMSA representative to witness the testing; and
 - (D) Ensure that the testing laboratory distributes all resulting reports, whether draft or final, to the Director at the same time as they are made available to Respondent.
3. Within 30 days after an Order is issued, calculate the true volume of product that was released from the pipeline as a result of the January 9, 2008 pipeline failure and submit the calculated volume and method of calculation to the Director.
4. Within 60 days after an Order is issued, develop and submit to the Director for approval a written remedial work plan that includes corrective measures. The work plan must fully address all known or suspected factors that caused or contributed to the January 9, 2008 failure and must include, as applicable:
 - (A) The integration of the information developed from the actions required by Item 2 with any relevant pipeline system information, including: previous failure investigations, leak history, repair records, corrosion control/cathodic protection records, internal inspections, hydrostatic testing, changes in pressure cycling, operating procedures, and other relevant operating data for the purpose of performing a comprehensive analysis of the available information associated with the factors that caused or contributed to the failure;
 - (B) The performance of field testing, inspections, and evaluations to determine whether and to what extent the conditions associated with the failure, or any other integrity-threatening conditions, are present elsewhere on the affected pipeline

system. If seam failure is determined to have caused or contributed to the pipeline failure, field testing must include: (1) hydrostatic testing, including a “spike” test and detailed metallurgical testing of any hydrostatic test failures that occur; or (2) testing by an alternative technology with prior approval of the Director. Include a detailed description of the criteria to be used for the evaluation and prioritization of any integrity threats/anomalies that are identified. Make the results of the inspections, field excavations, and evaluations available to PHMSA or its representative;

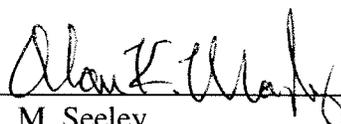
- (C) The performance of repairs or other corrective measures that fully remediate the condition(s) associated with the pipeline failure and any other integrity-threatening condition everywhere along the pipeline where such conditions are identified by the evaluation process. Include a detailed description of the repair criteria and method(s) to be used in undertaking any repairs or other remedial actions;
 - (D) Provisions for continuing long-term periodic testing and integrity verification measures to ensure the ongoing safe operation of the pipeline considering the results of the analyses, inspections, and corrective measures undertaken pursuant to the corrective action order; and
 - (E) A proposed schedule for completion of the actions required by paragraphs (A) through (D) of this Item.
5. Revise the remedial work plan as necessary to incorporate new information obtained during the failure investigation and associated remedial activities. Submit any such plan revisions to the Director for prior approval. The Director may approve plan elements incrementally. The remedial work plan shall become incorporated into the corrective action order.
 6. Implement the work plan as it is approved by the Director, including any revisions to the plan.
 7. Submit quarterly reports to the Director that: (1) include available data and results of the testing and evaluations required by this Order; and (2) describe the progress of the repairs and other remedial actions being undertaken.
 8. Maintain documentation of the costs associated with implementation of the corrective action order. Include in each quarterly report submitted pursuant to Item 7, the to-date total costs associated with: (1) preparation and revision of procedures, studies and analyses; (2) physical changes to pipeline infrastructure, including repairs, replacements and other modifications; and (3) environmental remediation.
 9. The Director may allow the removal or modification of the pressure restriction set forth in Item 1 upon a written request from Respondent demonstrating that the hazard has been abated and that restoring the affected pipeline, or portion thereof, to its pre-failure

operating pressure is justified based on a reliable engineering analysis showing that the pressure increase is safe considering all known defects, anomalies, and operating parameters of the pipeline.

10. The Director may grant an extension of time for compliance with any of the terms of this Order upon a written request timely submitted demonstrating good cause for an extension.
11. With respect to each submission that under this Order requires the approval of the Director, the Director may: (a) approve, in whole or part, the submission; (b) approve the submission on specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove in whole or in part, the submission, directing that Respondent modify the submission, or (e) any combination of the above. In the event of approval, approval upon conditions, or modification by the Director, Respondent shall proceed to take all action required by the submission as approved or modified by the Director. In the event that the Director disapproves all or any portion of the submission, Respondent shall correct all deficiencies within the time specified by the Director, and resubmit it for approval. In the event that a resubmitted item is disapproved in whole or in part, the Director may again require Respondent to correct the deficiencies in accordance with the foregoing procedure, and/or the Director may otherwise proceed to enforce the terms of this Order.
12. Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.

The actions proposed by this Notice of Proposed Corrective Action Order are in addition to and do not waive any requirements that apply to Respondent's pipeline system under 49 C.F.R. Parts 190 through 199, under any other order issued to Respondent under authority of 49 U.S.C. § 60101 et seq., or under any other provision of Federal or state law.

After receiving and analyzing additional data in the course of this investigation, PHMSA may identify other corrective measures that need to be taken. In that event, Respondent will be notified of any additional measures required and amendment of the corrective action order will be considered. To the extent consistent with safety, Respondent will be afforded notice and an opportunity for a hearing prior to the imposition of any additional corrective measures.

for: 
 R. M. Seeley
 Director
 Southwest Region, PHMSA

JAN 17 2008

 Date Issued

§ 190.231

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(2) Subsequently damages a pipeline facility and knows or has reason to know of the damage but fails to promptly report the damage to the operator and to the appropriate authorities; or

(3) Subsequently damages a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product; shall, upon conviction, be subject for each offense to a fine of not more than \$5,000, imprisonment for a term not to exceed 5 years, or both.

(f) No person shall be subject to criminal penalties under paragraph (a) of this section for violation of any regulation and the violation of any order issued under §190.217, §190.219 or §190.229 if both violations are based on the same act.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190-2, 54 FR 32344, Aug. 7, 1989; Amdt. 190-4, 56 FR 63770, Dec. 5, 1991; Amdt. 190-6, 61 FR 18515, Apr. 26, 1996; 70 FR 11138, Mar. 8, 2005]

§ 190.231 Referral for prosecution.

If an employee of the Pipeline and Hazardous Materials Safety Administration becomes aware of any actual or possible activity subject to criminal penalties under §190.229, the employee reports it to the Office of the Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590. The Chief Counsel refers the report to OPS for investigation. Upon completion of the investigation and if appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

[Amdt. 190-6, 61 FR 18515, Apr. 26, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

SPECIFIC RELIEF

§ 190.233 Corrective action orders.

(a) Except as provided by paragraph (b) of this section, if the Associate Administrator, OPS finds, after reasonable notice and opportunity for hearing in accord with paragraph (c) of this section and §190.211(a), a particular pipeline facility to be hazardous to life, property, or the environment, the Associate Administrator, OPS shall issue an order pursuant to this section re-

quiring the owner or operator of the facility to take corrective action. Corrective action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action.

(b) The Associate Administrator, OPS may waive the requirement for notice and opportunity for hearing under paragraph (a) of this section before issuing an order pursuant to this section when the Associate Administrator, OPS determines that the failure to do so would result in the likelihood of serious harm to life, property, or the environment. However, the Associate Administrator, OPS shall provide an opportunity for a hearing as soon as is practicable after the issuance of a compliance order. The provisions of paragraph (c)(2) of this section apply to an owner or operator's decision to exercise its opportunity for a hearing. The purpose of such a post-order hearing is for the Associate Administrator, OPS to determine whether a compliance order should remain in effect or be rescinded or suspended in accord with paragraph (g) of this section.

(c) Notice and hearing:

(1) Written notice that OPS intends to issue an order under this section shall be served upon the owner or operator of an alleged hazardous facility in accordance with §190.5. The notice shall allege the existence of a hazardous facility and state the facts and circumstances supporting the issuance of a corrective action order. The notice shall also provide the owner or operator with the opportunity for a hearing and shall identify a time and location where a hearing may be held.

(2) An owner or operator that elects to exercise its opportunity for a hearing under this section must notify the Associate Administrator, OPS of that election in writing within 10 days of service of the notice provided under paragraph (c)(1) of this section, or under paragraph (b) of this section when applicable. The absence of such written notification waives an owner or operator's opportunity for a hearing and allows the Associate Administrator, OPS to issue a corrective action order in accordance with paragraphs (d) through (h) of this section.

(3) A hearing under this section shall be presided over by an attorney from the Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, acting as Presiding Official, and conducted without strict adherence to formal rules of evidence. The Presiding Official presents the allegations contained in the notice issued under this section. The owner or operator of the alleged hazardous facility may submit any relevant information or materials, call witnesses, and present arguments on the issue of whether or not a corrective action order should be issued.

(4) Within 48 hours after conclusion of a hearing under this section, the Presiding Official shall submit a recommendation to the Associate Administrator, OPS as to whether or not a corrective action order is required. Upon receipt of the recommendation, the Associate Administrator, OPS shall proceed in accordance with paragraphs (d) through (h) of this section. If the Associate Administrator, OPS finds the facility is or would be hazardous to life, property, or the environment, the Associate Administrator, OPS shall issue a corrective action order in accordance with this section. If the Associate Administrator, OPS does not find the facility is or would be hazardous to life, property, or the environment, the Associate Administrator shall withdraw the allegation of the existence of a hazardous facility contained in the notice, and promptly notify the owner or operator in writing by service as prescribed in § 190.5.

(d) The Associate Administrator, OPS may find a pipeline facility to be hazardous under paragraph (a) of this section:

(1) If under the facts and circumstances the Associate Administrator, OPS determines the particular facility is hazardous to life, property, or the environment; or

(2) If the pipeline facility or a component thereof has been constructed or operated with any equipment, material, or technique which the Associate Administrator, OPS determines is hazardous to life, property, or the environment, unless the operator involved demonstrates to the satisfaction of the Associate Administrator, OPS that,

under the particular facts and circumstances involved, such equipment, material, or technique is not hazardous.

(e) In making a determination under paragraph (d) of this section, the Associate Administrator, OPS shall consider, if relevant:

(1) The characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction or assembly;

(2) The nature of the materials transported by such facility (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

(3) The characteristics of the geographical areas in which the pipeline facility is located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas;

(4) Any recommendation of the National Transportation Safety Board issued in connection with any investigation conducted by the Board; and

(5) Such other factors as the Associate Administrator, OPS may consider appropriate.

(f) A corrective action order shall contain the following information:

(1) A finding that the pipeline facility is hazardous to life, property, or the environment.

(2) The relevant facts which form the basis of that finding.

(3) The legal basis for the order.

(4) The nature and description of any particular corrective action required of the respondent.

(5) The date by which the required corrective action must be taken or completed and, where appropriate, the duration of the order.

(6) If the opportunity for a hearing was waived pursuant to paragraph (b) of this section, a statement that an opportunity for a hearing will be available at a particular time and location after issuance of the order.

§ 190.235

(g) The Associate Administrator, OPS shall rescind or suspend a corrective action order whenever the Associate Administrator, OPS determines that the facility is no longer hazardous to life, property, or the environment. When appropriate, however, such a rescission or suspension may be accompanied by a notice of probable violation issued under § 190.207.

(h) At any time after a corrective action order issued under this section has become effective, the Associate Administrator, OPS may request the Attorney General to bring an action for appropriate relief in accordance with § 190.235.

(i) Upon petition by the Attorney General, the District Courts of the United States shall have jurisdiction to enforce orders issued under this section by appropriate means.

[70 FR 11138, Mar. 8, 2005]

§ 190.235 Civil actions generally.

Whenever it appears to the Associate Administrator, OPS that a person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any provision of 49 U.S.C. 60101 *et seq.*, or any regulations issued thereunder, the Administrator, PHMSA, or the person to whom the authority has been delegated, may request the Attorney General to bring an action in the appropriate U.S. District Court for such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, civil penalties, and punitive damages as provided under 49 U.S.C. 60120 and 49 U.S.C. 5123.

[70 FR 11139, Mar. 8, 2005]

§ 190.237 Amendment of plans or procedures.

(a) A Regional Director begins a proceeding to determine whether an operator's plans or procedures required under parts 192, 193, 195, and 199 of this subchapter are inadequate to assure safe operation of a pipeline facility by issuing a notice of amendment. The notice shall provide an opportunity for a hearing under § 190.211 of this part and shall specify the alleged inadequacies and the proposed action for revision of the plans or procedures. The notice

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shall allow the operator 30 days after receipt of the notice to submit written comments or request a hearing. After considering all material presented in writing or at the hearing, the Associate Administrator, OPS shall determine whether the plans or procedures are inadequate as alleged and order the required amendment if they are inadequate, or withdraw the notice if they are not. In determining the adequacy of an operator's plans or procedures, the Associate Administrator, OPS shall consider:

(1) Relevant available pipeline safety data;

(2) Whether the plans or procedures are appropriate for the particular type of pipeline transportation or facility, and for the location of the facility;

(3) The reasonableness of the plans or procedures; and

(4) The extent to which the plans or procedures contribute to public safety.

(b) The amendment of an operator's plans or procedures prescribed in paragraph (a) of this section is in addition to, and may be used in conjunction with, the appropriate enforcement actions prescribed in this subpart.

[Amdt. 190-3, 56 FR 31090, July 9, 1991, as amended by Amdt. 190-6, 61 FR 18516, Apr. 26, 1996]

Subpart C—Procedures for Adoption of Rules

SOURCE: Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, unless otherwise noted.

§ 190.301 Scope.

This subpart prescribes general rule-making procedures for the issue, amendment, and repeal of Pipeline Safety Program regulations of the Pipeline and Hazardous Materials Safety Administration of the Department of Transportation.

[Amdt. 190-8, 61 FR 50909, Sept. 27, 1996, as amended at 70 FR 11137, Mar. 8, 2005]

§ 190.303 Delegations.

For the purposes of this subpart, *Administrator* means the Administrator,