

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 3, 2009

Mr. Jim Rose
Director
Exxon Mobil Pipeline Company
12851 166th Street
Cerritos, CA 90703-2103

CPF 5-2009-5004

Dear Mr. Rose:

On November 3, 2008, a representative of the Washington Utilities and Transportation Commission (WUTC) acting as an agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, responded to a release from Tank #505 at the Exxon Mobil Pipeline Company Spokane Terminal in Spokane, Washington. The WUTC representative conducted an investigation into the cause of the release. During the course of the investigation, Exxon Mobil's manuals and records were reviewed in detail.

As a result of the investigation, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. §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. This manual shall be prepared before initial operations of a pipeline commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

A Thermowell unit was inadvertently removed from breakout tank number 505 while trying to remove the temperature probe from the unit. This allowed gasoline to freely flow out of Tank #505 onto the ground. No procedure was available for the safe removal of the temperature probe from the Thermowell unit. Removal of the temperature probe is a normal, periodically conducted maintenance activity.

Exxon Mobil Pipeline Company staff was asked to provide a copy of their procedure for removing the temperature probe from the tank's Thermowell units specifically as well as a procedure for removing any device that protrudes through a break out tank wall where the possibility exists for a breach of the tank wall. Exxon Mobil Pipeline Company staff could not provide either. The probe is periodically removed to calibrate the temperature gauge.

The operator did provide Qualification of Pipeline Personnel for Covered Task Analysis including: *Inspect, Test and Calibrate Control Devices, Electrical* (Task ID#1) and *Inspecting, Replacing Overpressure/Overfill Control Devices, Mechanical Components* (Task ID# 30). The above documents are not procedures and no procedures were made available. The Thermowell unit is not a control device or electrically operated component for sending data, like a remote transmitter unit.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$100,000.00 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$100,000.00

Proposed Compliance Order

With respect to item 1 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Exxon Mobil Pipeline Company. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 5-2009-5004** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

cc: PHP-60 Compliance Registry
PHP-500 P. Katchmar (#122878)

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Exxon Mobil Pipeline Company a Compliance Order incorporating the following remedial requirements to ensure the compliance of Exxon Mobil Pipeline Company with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to not having a procedure for removing the temperature probe for calibration, Exxon Mobil Pipeline Company must establish and implement appropriate procedures specifically for removing and calibrating temperature probes on break out tanks and more generally for removing any device that protrudes through a break out tank wall where the possibility exists for a breach of the tank wall per 49 CFR Part 195.402(a).
2. Exxon Mobil Pipeline Company shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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, additions and other changes to pipeline infrastructure.