

**JUL 23 2009**

Mr. Ian F. Scoble  
Director, Refining Americas  
ExxonMobil Refining & Supply Company  
3225 Gallows Road, Room 6B2112  
Fairfax, VA 22037

**Re: CPF No. 5-2005-5007**

Dear Mr. Scoble:

Enclosed is the Final Order issued in the above-referenced case. It makes a finding of violation and finds that you have completed the actions specified in the Notice required to comply with the pipeline safety regulations. This case is now closed. Your receipt of this Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, PHMSA  
Mr. Ron Kuhler, ExxonMobil Refining & Supply Company  
P.O. Box 1163, Billings, Montana 59103

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 0390 0005 6162 5043]**

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

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<b>In the Matter of</b>	)	
	)	
<b>ExxonMobil Refining &amp; Supply Company,</b>	)	<b>CPF No. 5-2005-5007</b>
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

On September 30, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of the facilities and records of ExxonMobil's Billings Refinery breakout tank. As a result of the inspection, the Director, Western Region, OPS (Director), issued to ExxonMobil Pipeline Company (EMPCo), by letter dated February 11, 2005, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that EMPCo had violated 49 C.F.R. Part 195 and proposed ordering Respondent to take certain measures to correct the alleged violation.

EMPCo responded to the Notice by letter dated March 14, 2005, as supplemented by letter dated March 10, 2006. EMPCo explained that the Billings breakout tank was on the grounds of the Billings Refinery and informed PHMSA that ExxonMobil Refining & Supply Company was the appropriate Respondent and would be providing a substantive response to the Notice. On February 7, 2006, a copy of the Notice was issued to ExxonMobil Refining & Supply Company (Respondent). By letter dated March 13, 2006, Respondent contested the allegation, offered information in explanation of the allegations, and requested an informal hearing. A hearing was held via teleconference on August 9, 2007 at which Respondent was represented by counsel. Larry L. White from the Office of Chief Counsel, PHMSA, served as Presiding Official. After the hearing, Respondent provided additional information for the record on September 10, 2007.

**FINDING OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.1(c), which states:

**§ 195.1 Applicability.**

(a) . . .

(c) Breakout tanks subject to this part must comply with requirements that apply specifically to breakout tanks and, to the extent applicable, with requirements that apply to pipeline systems and pipeline facilities. If a conflict exists between a requirement that applies specifically to breakout tanks and a requirement that applies to pipeline systems or pipeline facilities, the requirement that applies specifically to breakout tanks prevails. Anhydrous ammonia breakout tanks need not comply with §§195.132(b), 195.205(b), 195.242(c) and (d), 195.264(b) and (e), 195.307, 195.428(c) and (d), and 195.432(b) and (c).

Specifically, the Notice alleged that Respondent failed to inspect and maintain Billings Refinery Tank #2 in accordance with the Part 195 requirements applicable to breakout tanks.

In its Response and during the hearing, Respondent stated that it did not consider Tank #2 to be a breakout tank. Respondent contended that the surge relief valves at mainline motor-operated valve locations outside the Billings facility were adequate to protect the mainline system from pressure surges, without relief from Tank #2. Respondent argued that these mainline overpressure protection valves would ensure that pipeline pressures could not exceed 110% of the maximum operating pressure (MOP) during upset conditions. This included a pressure relief valve at the meter skid. Respondent provided a surge analysis based on scenarios where the Yellowstone valve closed while a pump station was injecting crude oil into the pipeline, resulting in pressures corresponding to approximately 108% of MOP. In addition, Respondent stated at the hearing that, to the best of its knowledge, the tank had never actually received a surge. Respondent also provided relevant operating records.

At the hearing, OPS countered that the company's surge modeling was only accurate to within 4-5% of what the actual pressure would be and that, as a result, the pressures could potentially be anywhere between 104% and 112% of MOP. Therefore, the pressure control valve in place would not actually stop the surge and pressure would be relieved into the breakout tank in these situations. OPS also noted that the pressure relief valve at the meter skid was designed to protect only the meter skid itself.

Under 49 C.F.R. § 195.2, a breakout tank is defined as:

“... a tank used to (a) relieve surges in a hazardous liquid pipeline system or (b) receive and store hazardous liquid transported by a pipeline for reinjection and continued transportation by pipeline.”

That same section defines surge pressure as:

“... pressure produced by a change in velocity of the moving stream that results from shutting down a pump station or pumping unit, closure of a valve, or any other blockage of the moving stream.”

The definitions of breakout tank and surge pressure do not require that 110% of MOP be exceeded. Respondent acknowledged that Tank #2 is not isolated from pipeline pressure. Thus, the potential for the tank to relieve surges in the pipeline system is clearly present. Therefore, Tank #2 meets the definition of a breakout tank and is subject to the Part 195 breakout tank requirements, regardless of whether it has yet to actually receive a surge.

Finally, Respondent argued that the applicability of PHMSA’s regulations to its piping ended at the fence line of the Billings facility. This is incorrect. It is well established that the exemptions in the pipeline safety regulations for production, refining, and terminal facilities do not cover piping on the grounds of such facilities up to the pressure control device inside the facility (see e.g., 49 C.F.R. § 195.1(b)(7)-(8)), including piping to a breakout tank when present.

Accordingly, after considering all the evidence arguments presented, I find that Respondent violated 49 C.F.R. § 190.1(c) by failing to inspect and maintain Billings Refinery Tank #2 in accordance with the Part 195 requirements applicable to breakout tanks.

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. 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. In its Response, Respondent informed PHMSA that it began treating Tank #2 as a breakout tank on November 9, 2005, including establishing operating and maintenance procedures, API inspections, operator qualification and spill response plans, and the installation of cathodic protection. Accordingly, since compliance has been achieved with respect to this violation, it is unnecessary to include compliance terms in this Order.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, 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 terms of the order, including any required corrective action, shall remain in full force and

effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued