

APRIL 16, 2013

Mr. Gary W. Pruessing
President
ExxonMobil Pipeline Company
800 Bell Street, Room 641D
Houston, Texas 77002

Re: CPF No. 3-2009-5025

Dear Mr. Pruessing:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one of the allegations of violation, makes one other finding of violation, and assesses a reduced civil penalty of \$15,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. David Barrett, Director, Central Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. John Y. Dupre, Northern Operations V.P. Manager, ExxonMobil Pipeline Company,
3225 Gallows Road, Room 5B2134, Fairfax VA 22037

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)	
)	
ExxonMobil Pipeline Company,)	CPF 3-2009-5025
)	
Respondent.)	
)	

FINAL ORDER

Between November 25 and December 3, 2009, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted a pipeline safety inspection of the pipeline facilities and records of ExxonMobil Pipeline Company (ExxonMobil or Respondent), at the company's Lockport Terminal in Lockport, Illinois (Terminal), and various other locations in Illinois. ExxonMobil is a major pipeline operator in the United States, with more than 10,796 miles of pipeline in operation.¹

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated November 25, 2009, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that ExxonMobil had violated 49 C.F.R. § 195.404 and assessing a civil penalty of \$30,000 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

After requesting and receiving an extension of time, ExxonMobil responded to the Notice by letter dated February 2, 2009 (Response). ExxonMobil contested the allegation of violation in Item 1 and provided information in explanation of its actions in Item 2. ExxonMobil did not request a hearing and therefore has waived its rights to one.

FINDING OF VIOLATION

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

Item 1: The Notice alleged that ExxonMobil violated 49 CFR § 195.404(a)(3), which states:

¹ Pipeline Safety Violation Report (Violation Report), (November 9, 2009) (on file with PHMSA), at 1.

§ 195.404 Maps and records.

(a) Each operator shall maintain current maps and records of its pipeline systems that include at least the following information:

- (1) . . .
- (3) The maximum operating pressure of each pipeline.

The Notice alleged that Respondent violated 49 C.F.R. § 195.404(a)(3) by failing to maintain current records of its pipeline system showing the maximum operating pressure (MOP) of each pipeline. Specifically, the Notice alleged that ExxonMobil failed to maintain current records documenting the MOP of the company's 16-inch pipeline located within the Terminal that feeds the Buckeye (West Shore) pipeline system.

In its Response, ExxonMobil indicated that prior to this OPS inspection, the company had considered the 16-inch line to be "in-plant piping" and therefore not subject to regulation under Part 195. The company stated, however, that in light of the Notice it had reevaluated the line segment in question and attached copies of the documents that had previously established the MOP for the line.

After reviewing the materials submitted with the Response, including ExxonMobil's hydrotest records for the line, I agree that Respondent has satisfied the requirements of 49 C.F.R. § 195.404(a)(3). Accordingly, based upon a review of all the evidence, I hereby order that Item 1 be withdrawn.

Item 2: The Notice alleged that ExxonMobil violated 49 C.F.R. § 195.404(b)(2), which states:

§ 195.404 Maps and records.

- (a) . . .
- (b) Each operator shall maintain for at least 3 years daily operating records that indicate –
 - (1) . . .
 - (2) Any emergency or abnormal operation to which the procedures under § 195.402 apply.

The Notice alleged that Respondent violated 49 C.F.R. § 195.404(b)(2) by failing to maintain for at least three years daily operating records of its pipeline system indicating any emergency or abnormal operations. Specifically, the Notice alleged that ExxonMobil did not properly maintain operating records of all abnormal operations on the incoming and outgoing pipelines, breakout tanks and facility piping at the Terminal. It alleged that records were available for the period from November 2007 to December 2008, but not from December 2005 through October 2007.

In its Response, ExxonMobil acknowledged that it had failed to maintain the necessary records throughout the required time period, explaining that "[u]nfortunately, during a clean-up effort at the terminal, the December 2005 through October 2007 records were discarded." Section 195.404(b)(2) requires an operator not only to collect but also maintain its records of abnormal operations for at least three years. Accordingly, after reviewing all of the evidence in the record,

I find that ExxonMobil violated § 195.404(b)(2) by failing to maintain its abnormal operating records for a period of three years.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$30,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$15,000 for Respondent's violation of § 195.404(a)(3), for failing to maintain current records of its pipeline system showing the MOP of its pipeline. As discussed above, the allegation of violation for Item 1 has been withdrawn. Accordingly, the civil penalty for Item 1 is not included in this Order.

Item 2: The Notice proposed a civil penalty of \$15,000 for Respondent's violation of § 195.404(b)(2), for failing to maintain daily operating records of its pipeline system indicating emergencies and abnormal operations. As discussed above, I found that ExxonMobil failed to maintain certain records of abnormal operations for the required three-year period. The failure to maintain such records limits an operator's ability to analyze abnormal operations. While pipeline integrity was not significantly impacted by the violation here, public safety could have been adversely affected if a pipeline incident had occurred. I find the nature, circumstances, and gravity of the violation support the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess ExxonMobil a civil penalty of \$15,000 for the violation.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 195.404(a)(3). 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. Since Item 1 has been withdrawn, the compliance terms for that item are not included in this Order.

Under 49 C.F.R. § 190.215, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued