



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

JAN 29 2009

1200 New Jersey Ave., SE
Washington, DC 20590

Ms. Meg A. Yeage
President
ConocoPhillips Pipeline Company
600 North Dairy Ashford
TA 2010
Houston, TX 77079

Re: CPF No. 4-2006-5041

Dear Ms. Yeage:

Enclosed is the Final Order issued by PHMSA in the above-referenced case. It makes a finding of violation, assesses a civil penalty, and specifies actions that ConocoPhillips needs to take in order to comply with the pipeline safety regulations. I acknowledge receipt of and accept your wire transfer for \$26,000 as payment in full of the civil penalty assessed in the Final Order. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

William H. Guto
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. R. M. Seeley, Director, Southwest Region, OPS

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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

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| In the Matter of |) | |
| |) | |
| ConocoPhillips Pipeline Company, |) | CPF No. 4-2006-5041 |
| |) | |
| Respondent. |) | |
| |) | |

FINAL ORDER

On April 4–5, 2006, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the Operator Qualification (OQ) Plan of ConocoPhillips Pipeline Company (ConocoPhillips or Respondent) at the company’s offices in Ponca City, Oklahoma. ConocoPhillips operates pipeline facilities transporting crude oil, propane, and refined petroleum products such as gasoline, diesel and jet fuel, throughout the United States. As a result of that inspection, on October 23, 2006, in accordance with 49 C.F.R. § 190.207, the Director, Southwest Region (Director), issued to Respondent a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice). The Notice proposed finding that Respondent violated 49 C.F.R. § 195.509(d) and assessing a civil penalty of \$26,000 for the alleged violation. The Notice also proposed that Respondent take certain measures to correct the alleged violation.

ConocoPhillips responded to the Notice by letter dated November 27, 2006, indicating that it did not agree with the allegation but agreeing to pay the proposed civil penalty and comply with the terms of the proposed Compliance Order. In addition, Respondent submitted a wire transfer in the amount of the proposed civil penalty (\$26,000) on November 22, 2006, thereby waiving further right to respond and authorizing entry of this Final Order.

Pursuant to 49 U.S.C. § 60122, 49 C.F.R. §§ 190.209(a)(1) and 190.213, I find that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.509(d), which states, in relevant part:

§ 195.509 General.

- (a) Operators must have a written qualification program by April 27, 2001
- (b) Operators must complete the qualification of individuals performing covered tasks by October 28, 2002.
- (c) Work performance history review may be used as a sole evaluation method for

individuals who were performing a covered task prior to October 26, 1999.

(d) After October 28, 2002, work performance history may not be used as a sole evaluation method.

Respondent violated 49 C.F.R. § 195.509(d) by using work performance history review (WPHR) as a sole evaluation method after October 28, 2002. At the time of the inspection on April 4–5, 2006, Respondent had reevaluated 1,981 tasks using WPHR as a sole evaluation method.

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

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, PHMSA 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, the agency 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 \$26,000 for violation of § 195.509(d). Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$26,000 for said violation, which amount has already been paid by ConocoPhillips and received by PHMSA.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to the violation of 49 C.F.R. § 195.509(d) described above. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquid by pipeline or who owns or operates a hazardous liquid pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations. ConocoPhillips must—

1. In accordance with 49 C.F.R. Subpart G (§§ 195.501–195.509) and using additional evaluation methods, re-evaluate the 1,981 covered tasks that, at the time of the inspection, had been qualified solely by WPHR.
2. Maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and report the total cost as follows: (a) total cost associated with preparation, revision of plans and procedures, and performance of studies and analyses; and (b) total cost associated with physical changes, if any, to the pipeline infrastructure, including replacements and additions.
3. Complete each of the above items and submit documentation verifying completion within 180 days of receipt of this Final Order. Documentation shall be submitted to the Director, Southwest Region, Office of Pipeline Safety, 8701 South Gessner, Suite 1110, Houston, TX 77074-2949.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties up to \$100,000 per day for each violation and in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this Final Order shall be effective upon receipt.

William H. Wiese

for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

JAN 29 2009

Date Issued