

APRIL 05, 2013

Mr. Randall L. Curry
President
Chevron Pipe Line Company
4800 Fournace Place
Bellaire, TX 77401

Re: CPF No. 4-2012-5013

Dear Mr. Curry:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$22,500. 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. Jim Barnum, Vice President, Chevron Pipe Line Company
Mr. Rodrick Seeley, Director, Southwest Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

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)	
)	
Chevron Pipe Line Company,)	CPF No. 4-2012-5013
)	
Respondent.)	
)	

FINAL ORDER

On September 8-11, 2011, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS) initiated an investigation of an accident that occurred on September 8, 2011, on the 10-inch West Texas Coahoma LPG pipeline operated by Chevron Pipe Line Company (Chevron or Respondent). The accident occurred approximately 40 feet west of Chevron’s 148.8 block valve located in Mitchell County, Texas. The Coahoma pipeline runs approximately 2,750 miles, beginning at natural gas processing facilities in Western Texas and in Mexico and terminating at product storage facilities in Mt. Belvieu, Texas.¹

The Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 16, 2012, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Chevron violated 49 C.F.R. § 195.54 and proposed assessing a civil penalty of \$22,500 for the alleged violation.

Chevron responded to the Notice by letter dated May 11, 2012 (Response). The company contested the allegation, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195.54, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.54(b), which states:

¹ Pipeline Safety Violation Report (April 16, 2012) (Violation Report), 1.

§ 195.54 Accident reports.

(b) Whenever an operator receives any changes in the information reported or additions to the original report on DOT Form 7000-1, it shall file a supplemental report within 30 days.

The Notice alleged that Respondent violated 49 C.F.R. § 195.54(b) by failing to file a supplemental report within 30 days of receiving any changes in or additions to the information reported on the original DOT Form 7000-1 report (7000-1 report). Specifically, the Notice alleged that Chevron failed to file a supplemental report to the 7000-1 report after receiving a metallurgical report in December 2011.

In its Response, Chevron denies that it violated 195.54(b). While Respondent admits that it received a metallurgical report from Stress Engineering Services, Inc. dated December 5, 2011, it claims there was no need to file a supplemental report given that the metallurgical report findings concurred with the original 7000-1 report. Chevron also asserts that, since PHMSA also received a copy of the metallurgical report in early December, it was reasonable for the company to infer that there was no need to update the initial report.

The language of § 195.54(b) speaks for itself. The regulation requires filing a supplemental report whenever “the operator receives any changes ... *or additions (emphasis added)*” to the original report. The metallurgical report contains information that was not provided in the original 7000-1 report. For example, Chevron indicated in *Section G5 – Material Failure of Pipe or Weld* of the 7000-1 report that, as determined by its field examination, mechanical stress was a contributing failure in the cracking of the pipeline. However, the metallurgical report determined that the cause of the crack was “a result of a combination of bending loads and excessive hardness in the weld heat affected zone (HAZ).” Contrary to Respondent’s statement that a supplemental report was not required because it concurred with the 7000-1 report, the metallurgical report contains additional information that clearly falls under § 195.54 and therefore should have been submitted.

Even assuming that Chevron did not receive the report until December 15, 2011, the supplemental report was due by January 15, 2012. After prodding from the agency, Chevron first attempted to submit the required report on March 6, 2012, approximately three months later. Chevron’s technological difficulties are immaterial to the disposition of this case. Chevron exceeded the 30-day time limit, irrespective of whether it complied as of March 6 or March 27, 2012.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.54(b) by failing to file a supplemental report within 30 days of receiving any changes in the information reported or additions to the original report on DOT Form 7000-1.

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

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative 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 \$22,500 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$22,500 for Respondent's violation of 49 C.F.R. § 195.54(b), for failing to file a supplemental report within 30 days whenever an operator receives any changes in the information reported or additions to the original DOT Form 7000-1. The Respondent argues that, if it violated § 195.54, the penalty calculation should utilize the date at which it attempted to comply, March 6, 2012, and not the date it actually uploaded the supplemental report, March 27, 2012. By referencing either date, the penalty calculation is unaffected. The reporting forms and procedures are clearly stated in the regulations and serve an important function for the agency and overall safety. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$22,500 for violation of 49 C.F.R. § 195.54(b).

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.

Failure to pay the \$22,500 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

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