

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

March 17, 2020

Bryan Milton
President
ExxonMobil Fuels and Lubricants Company
4045 Scenic Highway
Baton Rouge, Louisiana 70821-0551

CPF 4-2020-5007

Dear Mr. Milton:

On March 11-15, and June 17-20, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your ExxonMobil Fuels and Lubricants Company (ExxonMobil) procedures, integrity management plan, records and pipeline facilities in Baton Rouge, Louisiana.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations Part 195 (CFR). The items inspected and the probable violations are:

1. §195.1 Which pipelines are covered by this part?

(a) Covered. Except for pipelines listed in paragraph (b) of this Section, this Part applies to pipeline facilities and the transportation of hazardous liquids or carbon dioxide associated with those facilities in or affecting interstate or foreign commerce, including pipeline facilities on the Outer Continental Shelf (OCS). Covered pipelines include, but are not limited to...

(c) Breakout tanks. 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.

ExxonMobil failed to identify all breakout tanks at its Anchorage Tank Farm subject to 49 CFR Part 195.

During the PHMSA inspection, a review of the station piping determined that the jurisdictional status of all of the tanks within the facility was inaccurate. The review identified tanks that were omitted from regulatory oversight under 49 CFR Part 195.

2. § 195.420 Valve maintenance.

(a) Each operator shall, at intervals not exceeding 7½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

ExxonMobil failed to inspect its DOT valves 4905A, 4905B, 4917A, and 4917B to determine that it is functioning properly at intervals not exceed 7½ months, but at least twice each calendar year as required by § 195.420(b). During the inspection, ExxonMobil had only one valve inspection record for these valves dated February 26, 2019, at the Anchorage Tank Farm facility and missed the inspections for the 2017 and 2018 calendar years.

3. § 195.406 Maximum operating pressure.

(a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

(1) The internal design pressure of the pipe determined in accordance with §195.106. However, for steel pipe in pipelines being converted under §195.5, if one or more factors of the design formula (§195.106) are unknown, one of the following pressures is to be used as design pressure:

- (i) **Eighty percent of the first test pressure that produces yield under section N5.0 of Appendix N of ASME/ANSI B31.8 (incorporated by reference, see §195.3), reduced by the appropriate factors in §§195.106(a) and (e); or**
- (ii) **If the pipe is 323.8 mm (12¾ in) or less outside diameter and is not tested to yield under this paragraph, 1379 kPa (200 psig).**
- (2) The design pressure of any other component of the pipeline.**
- (3) Eighty percent of the test pressure for any part of the pipeline which has been pressure tested under Subpart E of this part.**
- (4) Eighty percent of the factory test pressure or of the prototype test pressure for any individually installed component which is excepted from testing under §195.305.**
- (5) For pipelines under §§195.302(b)(1) and (b)(2)(i), that have not been pressure tested under Subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for 4 or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted.**

ExxonMobil failed to establish the maximum operating pressure in accordance with § 195.406 for relief lines 4905 and 4917. ExxonMobil records provided during the inspection did not document a pressure test record for relief line 4905 as required by 195.406 (a)(1) and (a)(3) nor was it able to provide MOP internal pressure calculations for either relief line 4905 or relief line 4917 as required by 195.406 (a)(1).

4. § 195.452 Pipeline integrity management in high consequence areas.

- (j) What is a continual process of evaluation and assessment to maintain a pipeline's integrity?**
 - (1) General. After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area**

ExxonMobil failed to complete the re-assessment of the pipeline at the required five-year assessment interval as required by § 195.452(j)(1). ExxonMobil did not perform an integrity assessment following its baseline assessment on November 22, 2002. ExxonMobil conducted its next assessment on July 20, 2017, ten years beyond the required time frame.

Proposed Compliance Order

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a

maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to items 1, 2, and 3 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to ExxonMobil Fuels and Lubricants Company. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

With respect to item 4 we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2020-5007** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

cc: Gloria M. Moncada, Senior Executive, ExxonMobil Fuels and Lubricants Company, 4045
Scenic Highway, Baton Rouge, Louisiana 70821-0551

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

PROPOSED COMPLIANCE ORDER

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

1. In regard to Item Number 1 of the Notice pertaining to ExxonMobil's failure to identify all regulated breakout tanks under 195.1(c) in Anchorage Tank Farm, ExxonMobil must propose a plan for additional monitoring of the tank operations until its development plan is fully executed. On December 2, 2019, ExxonMobil proposed a development plan to comply with 195 regulation and to provide updates quarterly and the SW region finds the plan acceptable.
2. In regard to Item Number 2 of the Notice pertaining to ExxonMobil's failure to inspect its DOT valves 4905A, 4905B, 4917A, and 4917B ExxonMobil must follow its procedure and inspect the DOT valves and provide records of the inspection to PHMSA as required by § 195.420(b). The valve inspection record must identify the individual who did the valve inspection, the date the valve inspection occurred, which valve items were inspected, the condition of those valve items inspected, and remediation of any valve items found deficient.
3. In regard to Item Number 3 of the Notice pertaining to failure to establish the maximum operating pressure in accordance with § 195.406, ExxonMobil must provide a record of MOP calculation for relief line 4905 and relief line 4917. In addition, MOP calculation for relief line 4905 must include a record of pressure test as required by § 195.406(a)(3).
4. ExxonMobil must complete items 1, 2, & 3 within 90 days of receipt of the Final Order.
5. It is requested (not mandated) that ExxonMobil Fuels and Lubricants Company maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs 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.