

AUG 6 2009

Mr. Gary W. Pruessing
President
ExxonMobil Pipeline Company
800 Bell Street
Room 623F
Houston, TX 77002

Re: CPF No. 5-2005-5008

Dear Mr. Pruessing:

Enclosed is the Final Order issued in the above-referenced case. It withdraws the Notice and terminates this enforcement proceeding, without prejudice, as a matter of administrative discretion. 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,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Director, Western Region, OPS
Candice Frembling Dykhuizen, Counsel, Law Department,
ExxonMobil Pipeline Company

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 0390 0005 6162 5678

**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 No. 5-2005-5008
)	
Respondent.)	
_____)	

FINAL ORDER

From June 28 to July 1, 2004, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected the facilities and records of the ExxonMobil Pipeline Company (EMPCo or Respondent). EMPCo operates a 69-mile hazardous liquid pipeline system that runs from the Silver Tip Station in Carbon County, Montana, to the company's refinery in Billings, Montana.

As a result of that inspection, the Director, Western Region, OPS (Director), issued to EMPCo, by letter dated February 18, 2005, a Notice of Probable Violation, Proposed Compliance Order, Proposed Civil Penalty, and Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that EMPCo had violated Part 195 of the federal pipeline safety regulations, assessing a civil penalty of \$5,000 for one of the violations, and ordering the company to take certain actions to correct one of the other violations. The Notice also ordered Respondent to amend its written procedures.

By letter dated March 24, 2005 (Response), EMPCo responded to the Notice by disputing some of the alleged violations, opposing the proposed compliance order and civil penalty, and requesting an informal hearing. On January 9, 2007, after a hearing was held, PHMSA issued a Final Order in this matter. As a courtesy to and at the request of EMPCo, however, PHMSA later withdrew the Final Order and held a new hearing on April 12, 2007.

The Director has informed PHMSA that a re-inspection of EMPCo's hazardous liquid pipeline system occurred from July 27 to 30, 2009.

WITHDRAWAL OF ALLEGATIONS

Citing the unusual procedural history of this case and the imminent re-inspection of EMPCo's facilities, the Director has recommended that these proceedings be terminated and that the Items in this Notice be addressed on re-inspection. Accordingly, upon consideration of his recommendation and the unique circumstances of this case, I hereby withdraw the February 2005 Notice without prejudice as a matter of administrative discretion.¹ This case is now closed.

¹ *Heckler v. Chaney*, 470 U.S. 821, 831 (1985).

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. 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 and amendment of procedures, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay.

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

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued