

September 3, 2019

Mr. Darren W. Woods  
Chairman and Chief Executive Officer  
Exxon Mobil Corporation  
5959 Las Colinas Boulevard  
Irving, Texas 75039

**Re: CPF No. 5-2017-6017**

Dear Mr. Warren:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws the allegation of violation in the Notice of Probable Violation issued to Exxon Mobil Production Company, a subsidiary of Exxon Mobil Corporation, on May 24, 2017. Accordingly, this case is now closed. Service of the Final Order by certified mail is effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA  
Mr. Colin G. Harris, Faegre Baker Daniels, LLP, 1470 Walnut Street, Suite 300, Boulder,  
Colorado, 80302

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** )

**ExxonMobil Production Company,** )  
**a subsidiary of Exxon Mobil Corporation,** )

**Respondent.** )

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**CPF No. 5-2017-6017**

**FINAL ORDER**

From May 16-19, 2016, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of ExxonMobil Production Company's (ExxonMobil or Respondent), Shute Creek carbon dioxide (CO<sub>2</sub>) facility located near La Barge, Wyoming. ExxonMobil's Shute Creek CO<sub>2</sub> facility is one of the largest CO<sub>2</sub> capture plants in the world and has the capacity to capture approximately 365 million cubic feet of CO<sub>2</sub> per day from gas streams.<sup>1</sup>

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated May 24, 2017, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that ExxonMobil violated 49 C.F.R. § 195.446(a) and proposed assessing a civil penalty of \$43,200 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation. The warning item required no further action but warned the operator to correct the probable violation or be subject to future enforcement action.

ExxonMobil responded to the Notice by letter dated June 30, 2017 (Response). Respondent contested the allegation of violation, proposed civil penalty and compliance order, and requested a hearing. A hearing was subsequently held on November 8, 2017, in Lakewood, Colorado, with an attorney from the Office of Chief Counsel, PHMSA, presiding. At the hearing, Respondent was represented by counsel.

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<sup>1</sup> ExxonMobil News and Updates, *ExxonMobil Expands World's Largest Carbon Capture Plant in Wyoming* (Dec. 10, 2010), available at <https://news.exxonmobil.com/press-release/exxonmobil-expands-worlds-largest-carbon-capture-plant-wyoming> (Last accessed June 5, 2019).

## WITHDRAWAL OF VIOLATION

At the hearing, ExxonMobil contested the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.446(a), which states in relevant part:

**§ 195.446 Control room management.**

(a) *General.* This section applies to each operator of a pipeline facility with a controller working in a control room who monitors and controls all or part of a pipeline facility through a SCADA system. Each operator must have and follow written control room management procedures that implement the requirements of this section. The procedures required by this section must be integrated, as appropriate, with the operator's written procedures required by § 195.402. An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.

The Notice alleged that Respondent violated 49 C.F.R. § 195.446(a) by failing to have and follow written control room management procedures that implement the requirements of § 195.446. Specifically, the Notice alleged that ExxonMobil maintains an active control room at the Shute Creek gas plant and failed to have the required control room management procedures pursuant to § 195.446(a).

In its Recommendation, the Region stated that this Item should be withdrawn, along with the associated civil penalty and compliance order. Therefore, I withdraw this Item without reaching any of the jurisdictional or factual arguments raised by either the Respondent or the Region.

Accordingly, for the reasons discussed above, I withdraw Item 2.

## ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>2</sup> In determining the amount of a civil penalty under 49 U.S.C.

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<sup>2</sup> These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

§ 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; 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 \$43,200 for the violation cited above.

**Item 2:** The Notice proposed a civil penalty of \$43,200 for Respondent's violation of 49 C.F.R. § 195.446(a), for failing to have and follow written control room management procedures required by § 195.446. For the reasons discussed above, this item was withdrawn. Accordingly, I withdraw the civil penalty of \$43,200.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 2 for violation of 49 C.F.R. § 195.446(a). As stated above, I am withdrawing the proposed Compliance Order.

### **WARNING ITEM**

With respect to Item 1, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for this item. Therefore, this is a warning item. The warning was for:

49 C.F.R. § 195.588(b)(1) (**Item 1**) — Respondent's alleged failure to follow the requirements for performing External Corrosion Direct Assessment. Specifically, ExxonMobil failed to follow the requirements of NACE Standard SP-0502-2010, which is incorporated by reference in 49 CFR § 195.3(f)(2).

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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

September 3, 2019

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued