U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

Mr. Dave Hager
President and Chief Executive Officer
Devon Energy Corporation
dba Devon Energy Production Company, LP
333 West Sheridan Avenue
Oklahoma City, Oklahoma 73102

Re: CPF No. 5-2019-6001M

Dear Mr. Hager:

Enclosed please find the Order Directing Amendment issued in the above-referenced case. It makes findings of inadequate procedures and requires that Devon Energy Corporation amend certain written procedures. When the amendment of procedures is completed, as determined by the Director, Western Region, this enforcement action will be closed. Service of the Order Directing Amendment by e-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 KRAMER MAYBERRY

Digitally signed by ALAN KRAMER MAYBERRY
Date: 2020.03.31 14:05:23 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Mr. Marty Summers, EHS Manager, Devon Energy Corporation, 333 West Sheridan Avenue, Oklahoma City, Oklahoma 73102

VIA EMAIL – CONFIRMATION OF 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	)	
Devon Energy Corporation, d/b/a Devon Energy Production Company, LP,	)	**CPF No. 5-2019-6001M**
Respondent.	)	

ORDER DIRECTING AMENDMENT

From July 30 to August 2, 2018, 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 written operator qualification (OQ) program of Devon Energy Corporation (Devon or Respondent), a subsidiary of Devon Energy Production Company, LP in Oklahoma City, Oklahoma. Devon is an independent oil and natural gas exploration and production company, with operations focused onshore in the United States. The company operates CO2 pipelines and also produces approximately 140,000 barrels of oil, 575 million cubic feet of natural gas and 80,000 barrels of natural gas liquids per day.[1]

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated January 10, 2019, a Notice of Amendment (Notice). In accordance with 49 C.F.R. § 190.206, the Notice alleged certain inadequacies in Respondent's OQ program and proposed requiring Devon to amend its procedures to ensure safe operation of its pipeline facilities.

After requesting and receiving an extension of time to respond, Devon responded to the Notice by letter dated February 6, 2019 (Response). The company contested the allegations of inadequacy, provided a summary of its position, and included information concerning changes that it had made to its procedures. Respondent did not request a hearing and therefore has waived its right to one.

[1] Devon Energy Production Company, LP website, *available at* https://www.devonenergy.com/about-us (last accessed February 12, 2020).

FINDINGS OF INADEQUATE PROCEDURES

Item 1: The Notice alleged that Respondent's procedures were inadequate with regard to 49 C.F.R. § 195.505(b), which states in relevant part:

> **§ 195.505 Qualification program.**
> Each operator shall have and follow a written qualification program. The program shall include provisions to:
> (a) ...
> (b) Ensure through evaluation that individuals performing covered tasks are qualified; ....

The Notice alleged that Respondent's OQ Program had inadequate qualification methods used to ensure that the individuals performing covered tasks remained qualified to perform those tasks. Specifically, the Notice alleged that the program did not differentiate between methods used for initial qualification versus methods used for requalification. The Notice also alleged that Devon's OQ Program did not specify standards for testing or performance evaluations, and that the evaluation methods did not provide adequate criteria for evaluators to use to objectively verify individual employees' knowledge, skills, and abilities. For example, the Notice alleged Devon's methods for conducting testing did not ensure that qualified employees demonstrated knowledge of its operations and maintenance procedures.

In its Response, Devon stated that its OQ Program included adequate qualification methods to ensure that the individuals performing covered tasks remained qualified to perform those tasks. It explained that Section 5 of its OQ Program provides procedures for its qualification process. It stated that it does not differentiate between evaluation methods for initial and requalification because the methods are the same. Section 5.1 of its OQ plan states that "all evaluations ... shall be conducted in accordance with Veriforce Operator Qualification Personnel Evaluation Policies and Procedures" (included in Appendix 6 of its plan). Devon noted that it has incorporated Veriforce's (a third party) Covered Task Evaluation Criteria, referenced in Appendix 5 of the Program, to ensure each evaluator objectively verifies an individual's knowledge, skills, and abilities for each Covered Task for both initial and subsequent requalifications.

Devon also included an excerpt from its Evaluation Criteria, Form for CT 007 - Operate Valves. This form requires the evaluator to evaluate the individual's knowledge of "operator-approved procedures" (i.e. Devon's applicable operation and maintenance (O&M) procedures) as part of the evaluation process.

I have reviewed Devon's procedures and for the following reasons find them inadequate. While the procedures include statements regarding requirements to be qualified and how to obtain knowledge and skills, there is not enough detail for individuals and evaluators to understand the methods that will be used to ensure individuals remain qualified. Specifically, Devon must clarify in the program if the methods used for initial qualification and methods used for requalification are the same. Likewise, though Appendix 5 directs the reader to the Veriforce website to obtain current evaluation criteria, the Appendix fails to provide a link to the website. Devon must amend its procedures to either include the correct web address needed to access the

evaluation criteria or list the criteria directly into its procedures. Listing the criteria in the procedures themselves provides the advantage of ensuring that the information is available in the event that the website is unavailable or that criteria are added without Devon's knowledge or approval. Also, if the website changes, the procedures must be updated accordingly.

Devon relies on Veriforce's Covered Task Evaluation Criteria, but the attached form is not tailored to Devon's system. Devon may rely on an "off-the-shelf" OQ Program, but must ensure that the program addresses the specific aspects of its own facility. For example, on the Form for CT 007 - Operate Valves, one question asks an individual to identify the most common types of pipeline valves. Identifying types of common valves, however, might be irrelevant if the operator only has ball valves. Performing an inspection on a ball valve might be different than performing an inspection on a gate valve. This question fails to critically evaluate whether the individual has the specific knowledge necessary to perform valve operations on Devon's system pursuant to Devon's written procedures.

The following are other examples of how the procedures do not adequately provide criteria for evaluators to use to objectively verify individual employees' knowledge, skills, and abilities. It is unclear how an evaluator knows whether a test taker has "passed" the oral and action aspects of the examination. Devon's procedures do not provide criteria that ensure that internal evaluators are uniformly and objectively assessing candidates during these evaluations. Without such criteria, Devon cannot be certain that qualifications are uniform, since what one evaluator finds sufficient might be rejected by another evaluator. This could lead to differences in the minimum levels of skills and knowledge among Devon's workforce.

Veriforce's generic evaluation criteria are insufficient to determine if an individual is qualified to perform covered tasks on Devon's pipeline facility. Devon may rely on Verifore's evaluation criteria, but must also include questions and skill tests tailored specifically to Devon's unique system and procedural requirements. It should also include specific information on how to score results to promote uniformity and objective administration of the exams.

Accordingly, I find that Devon's procedures were inadequate to ensure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206, Devon is ordered to make revisions to its procedures to address the adequacies.

Item 2: The Notice alleged that Respondent's procedures were inadequate with regard to 49 C.F.R. § 195.505(c), which states in relevant part:

> **§ 195.505 Qualification program.**
> Each operator shall have and follow a written qualification program. The program shall include provisions to:
> (a) ...
> (c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified; ...

The Notice alleged that Devon's written OQ Program did not have an adequate procedure to

safely allow non-qualified individuals performing a covered task to be directed by a qualified individual. Specifically, the Notice alleged that the procedures did not adequately address key factors for span of control such as physical distance and communication barriers including noise levels and language comprehension.

In its Response, Devon stated that Section 7 of its OQ Program includes adequate procedures to safely allow non-qualified individuals to be directed by a qualified individual. It also stated that key factors for span of control are addressed in sections 7.1 and 7.3 of the Devon OQ Program. In Section 7, the program requires that "individuals who are not qualified to perform a task may perform a task if under the direct supervision of a qualified individual. Direct supervision includes the ability to clearly observe the non-qualified individual's activities and to take immediate corrective actions when necessary." In Section 7.1, the program states that a qualified person directing and observing the non-qualified person must be able to intervene to either prevent or react to an abnormal operating condition (AOC). Devon's span of control requirements includes ensuring that no language barriers exist to preclude communications, the qualified personnel must be in a position where they can direct and observe performance, and intervene if necessary, and only one covered task can be directed and observed at a time. Devon admitted that its procedures do not include provisions to address noise levels, but claimed that noise levels are understood to be included in the provisions regarding language barriers.

I find that Devon's procedures are sufficient regarding physical proximity. While the procedures do not specify a physical distance for observation, they do require that the qualified personnel be able to intervene if necessary. Because they must be standing close enough to the unqualified personnel to be able to intervene, requiring a specific physical proximity is unnecessary.

I do find, however, that Devon's span of control procedures are insufficient in one respect. Devon's span of control requirements do not address noise levels. The language of its procedures specifically references "language barriers," therefore it is unclear to the reader that noise levels are meant to be inferred into these requirements. Devon must amend its procedures to specifically address noise levels.

Accordingly, I find that Devon's procedures were inadequate to ensure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206, Devon is ordered to make the above revisions to its procedures.

Item 3: The Notice alleged that Respondent's procedures were inadequate with regard to 49 C.F.R. § 195.505(g), which states in relevant part:

> **§ 195.505 Qualification program.**
> Each operator shall have and follow a written qualification program. The program shall include provisions to:
> (a) ...
> (g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed; ...

The Notice alleged that Devon's written OQ Program did not have an adequate process or

procedure to establish and justify reevaluation intervals, but rather uses an across-the board application of extended reevaluation intervals with no documented justification or basis for that time interval. Specifically, the Notice alleged Devon's OQ Program did not consider the complexity of the task, the critical nature of the task, or the frequency of task performance (DIF analysis) when establishing reevaluation intervals. The Notice also alleged that Devon's Program did not identify a minimum time frame for reevaluation upon failure of evaluation for a covered task, nor did it establish how many times an individual would be allowed to attempt the requalification process before the qualification is revoked.

In its Response, Devon stated that the NOA was inaccurate in claiming that it uses across the board reevaluation intervals. It states that while many common covered tasks have 3-year intervals, complex tasks have a shorter reevaluation interval based on task complexity, critical nature, and frequency of performance. Devon explained that its Devon Pipeline Governance Committee (PGC) reviewed and adopted Veriforce's common covered task list (CCTL) and associated evaluation criteria, which were created by comparing and reconciling the existing covered task lists and criteria each client had developed/adopted. Subject matter experts utilized data from their respective individual plans to decide on evaluation method, evaluation criteria, span of control, and requalification intervals for each of the common covered tasks.

According to Respondent, Veriforce established and facilitates the CCTL Steering Committee which reviews the adequacy of the CCTL (and underlying task evaluation criteria) on an ongoing basis, as well as potential changes to the CCTL based on things such as stakeholder feedback and regulatory changes. The CCTL steering committee makes recommendations to the larger group of operators who have adopted the CCTL. Devon's PGC considered this process within its overall evaluation of the Veriforce program, favoring a process that included input and experiences from multiple pipeline operators across the county. In addition, Devon's PGC includes the appropriateness/effectiveness of task-specific span of control limits during its annual program evaluation.

Finally, with regard to identifying a minimum time frame for reevaluation upon failure of evaluation for a covered task and establishing how many times an individual would be allowed to attempt requalification process before the qualification is revoked, Devon noted that its evaluation process specifically states that an individual is deemed "unqualified" in the event of an unsuccessful evaluation per Section 6.10.3 of Veriforce's Policies and Procedures. In addition, Section 8 of Devon's OQ program requires training for any individual failing any evaluation prior to any subsequent evaluation attempts. This training must be verified and documented prior to revaluation.

Having considered the evidence in the record, I find that Devon's procedures establishing and justifying reevaluation intervals are insufficient. Devon relies on Veriforce's criteria which are not tailored to Devon's specific system, but are created based on a wide pool of operators. In order to be effective, Devon's procedures must be directly correlated to its own system. While Devon may have criteria for evaluating these intervals, it has not demonstrated that it actually applied that criteria rather than simply adopting Veriforce's off-the-shelf OQ program. Veriforce must amend its procedures to provide clarity regarding how reevaluations are conducted and established in order to ensure uniformity. While Devon does have procedures in

place regarding its evaluation process, these procedures are inadequate because they do not further define a reevaluation period, but only require an employee to "successfully complete appropriate training before a subsequent evaluation is allowed" under Section 6.9.5. Details such as how many times an individual may be allowed to attempt the requalification process before the qualification is revoked would be helpful for ensuring each employee is properly qualified.

It appears that Devon uses the same OQ Program for both its Part 192 and 195 facilities and has adopted Veriforce's list of covered tasks. I recommend separating the covered tasks related to natural gas and hazardous liquids into their own lists to reduce confusion that may arise if an employee sees a task that does not apply to a certain facility.

Accordingly, I find that Devon's procedures were inadequate to ensure safe operation of its pipeline system. Pursuant to 49 U.S.C. § 60108(a) and 49 C.F.R. § 190.206, Devon is ordered to make the above revisions to its procedures.

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 and demonstrating good cause for an extension.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed $213,268, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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, no later than 20 days after receipt of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

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

ALAN KRAMER MAYBERRY Digitally signed by ALAN KRAMER MAYBERRY Date: 2020.03.31 14:13:18 -04'00'

4/6/20

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued