

October 28, 2021

VIA ELECTRONIC MAIL TO: steven.a.yatauro@exxonmobil.com

Mr. Steven Yatauro
President
ExxonMobil Pipeline Company
22777 Springwoods Village Pkwy
Spring, Texas 77389

CPF No. 3-2021-022-NOPV

Dear Mr. Yatauro:

Enclosed please find a Consent Order incorporating the terms of the fully executed Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and ExxonMobil Pipeline Company, which was executed on October 27, 2021. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission, or as otherwise provided under 49 C.F.R. § 190.5.

Sincerely,

Alan K Mayberry
Associate Administrator
for Pipeline Safety

Enclosures: Consent Agreement and Consent Order

Cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Ms. Christina Philbrook, Regulatory Compliance Supervisor, ExxonMobil,
christina.s.philbrook@exxonmobil.com
Ms. Rebekah Bennett, General Counsel, Exxon Mobil, rebekah.r.bennett@exxonmobil.com
Mr. Daniel Brink, Senior Counsel, ExxonMobil, daniel.j.brink@exxonmobil.com

Mr. Vince Murchison, Outside Counsel for ExxonMobil, Murchison Law Firm, PLLC,
vince.murchison@pipelinelegal.com

Ms. Roina Baker, Outside Counsel for ExxonMobil, Murchison Law Firm, PLLC,
roina.baker@pipelinelegal.com

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	)	
	)	
ExxonMobil Pipeline Company,	)	CPF No. 3-2021-022-NOPV
	)	
Respondent.	)	
	)	

CONSENT ORDER

By letter dated May 18, 2021, the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (PHMSA), issued a Notice of Probable Violation and Proposed Civil Penalty (Notice) to ExxonMobil Pipeline Company (EMPCo or Respondent).

In response to the Notice, EMPCo contested certain allegations and requested a hearing. Subsequently, PHMSA and EMPCo (collectively referred to as the Parties) agreed that the contested issues may be resolved through informal discussions. On October 4th and 13th, 2021, the Parties engaged in good-faith settlement discussions that have resulted in the Consent Agreement attached to this Order that settles all of the issues in the Notice.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Order. NNG is hereby ordered to comply with the terms of the Consent Agreement, effective immediately.

Pursuant to 49 U.S.C. 60101, *et seq.*, failure to comply with this Consent Order may result in the assessment of civil penalties as set forth in 49 C.F.R. § 190.223.

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

October 28, 2021

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

**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,

Respondent.

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CPF No. 3-2021-022-NOPV

CONSENT AGREEMENT

WHEREAS, from July 27 through August 24, 2020, representatives 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 ExxonMobil Pipeline Company's (EMPCo's) Control Room Management plan and procedures and records in Spring, Texas.

WHEREAS, as a result of the inspection, the Director, Central Region, OPS (Director), issued to EMPCo, by letter dated May 18, 2021, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that EMPCo had violated three provisions of 49 C.F.R. Part 195, and proposed a civil penalty in the amount of \$58,200.

WHEREAS, after requesting and receiving an extension of time to respond to the Notice, EMPCo responded by letter dated July 16, 2021 contesting Items 1 and 2 and requesting a hearing; in addition, EMPCo submitted a written response relating to Item 3 of the Notice (collectively, the Response). In its Response, EMPCo requested the opportunity to meet informally to discuss the issues it contested in an effort to reach a resolution without the necessity of a hearing. Subsequent to the filing of the Response, EMPCo and PHMSA (collectively the Parties) met telephonically on numerous occasions to discuss a possible resolution of the case in lieu of proceeding to a hearing. During the meetings, the Parties offered additional information regarding the allegations, and an agreement was reached that resolves all of the issues raised by EMPCo in its Response.

NOW, THEREFORE, having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and will serve the public interest by promoting safety and protection of the environment, pursuant to 49 C.F.R. Part 190, and upon consent and agreement of EMPCo and PHMSA, the Parties hereby agree as follows:

I. General Provisions

1. EMPCo acknowledges that as the operator of the pipeline facilities subject to the Notice, EMPCo and said hazardous liquid pipeline facilities are subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Agreement, EMPCo acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. 60101, *et seq.*, and the regulations and administrative orders issued thereunder.

2. After EMPCo returns this signed Agreement to PHMSA, the Agency's representative will present it to the Associate Administrator for Pipeline Safety, recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of this Agreement

3. EMPCo consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. EMPCo waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except as set forth herein.

4. This Agreement shall apply to and be binding upon PHMSA and EMPCo, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. EMPCo agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of EMPCo's officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

5. This Agreement constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

6. Nothing in this Agreement affects or relieves EMPCo of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against EMPCo pursuant to the Federal pipeline safety laws, the regulations and administrative orders issued thereunder, or any other provision of Federal or State law.

7. This Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to EMPCo's pipeline facilities. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. EMPCo remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations and permits.

8. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of EMPCo or its officers, employees, or agents carrying out the work required by this Agreement. EMPCo agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of EMPCo or its contractors in carrying out any work required by this Agreement.

9. Upon issuance of the Consent Order, the Parties agree to the following terms.

II. Item 1 of the Notice:

10. ***Violation of 49 C.F.R. § 195.446:*** With respect to Item 1 of the Notice, the Parties agree that EMPCo violated § 192.446(e)(2), as alleged in the Notice. This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against EMPCo.

11. ***Civil Penalty for Item 1:*** EMPCo shall pay a civil penalty in the amount of **\$19,300** for this violation.

III. Item 2 of the Notice:

12. ***Allegation of Violation – 49 C.F.R. § 195.446:*** With respect to Item 2 of the Notice, the Parties agree that this Item shall be reduced to a warning item. During the informal meetings, EMPCo provided additional clarifying information regarding this allegation of violation such that a warning, and not an allegation of violation to be adjudicated at a hearing, is appropriate. This warning does not constitute a finding of violation for any purpose, and no further action by EMPCo is necessary.

13. ***Proposed Civil Penalty for Item 2:*** The Notice proposed a civil penalty for Item 2 in the amount of \$19,300. The proposed civil penalty for Item 2 is hereby withdrawn as this Item is reduced to a warning item.

IV. Item 3 of the Notice:

14. ***Violation of 49 C.F.R. § 192.446:*** With respect to Item 3 of the Notice, the Parties agree that EMPCo violated § 192.446(a), as alleged in the Notice. This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against EMPCo.

15. ***Civil Penalty for Item 3:*** EMPCo shall pay a civil penalty in the amount of **\$19,600** for this violation.

V. Enforcement

16. This Agreement is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101, *et seq.*, and 49 C.F.R. Part 190, including administrative civil penalties under 49 U.S.C. § 60122, of up to \$222,504 per violation for each day the violation continues and referral of the case to the Attorney General for judicial enforcement, if PHMSA determines that EMPCo is not complying with the terms of this Agreement in accordance with determinations made by the Director, or if appealed, in accordance with decisions of the Associate Administrator. The maximum civil penalty amounts are adjusted annually for inflation. *See, e.g.*, Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

VI. Dispute Resolution

17. The Director and EMPCo will informally attempt to resolve informally any disputes arising under this Agreement, including but not limited to any decision of the Director. If EMPCo and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised, in writing, to the Director, EMPCo may submit a written request for a determination resolving the dispute from the Associate Administrator for Pipeline Safety, PHMSA. Such request must be made in writing and provided to the Director, counsel for the Central Region, and to the Associate Administrator for Pipeline Safety, no later than 10 calendar days from the 15 day deadline for informal resolution referenced in this paragraph. Along with its request, EMPCo must provide the Associate Administrator with all information EMPCo believes is relevant to the dispute. Decisions of the Associate Administrator under this paragraph will constitute final agency action and are subject to judicial review. The existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process, except as agreed by the Director or the Associate Administrator in writing, or as ordered by a court of competent jurisdiction.

VII. Effective Date

18. The term "Effective Date," as used herein, is the date on which the Consent Order is issued by the Associate Administrator, PHMSA, incorporating the terms of this Agreement.

VIII. Modification

19. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

IX. Termination

20. This Agreement shall terminate upon EMPCo's payment of the civil penalties imposed by Paragraphs 11 and 15 hereof.

X. Ratification

21. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

22. The Parties hereby agree to all conditions and terms of this Agreement.

For ExxonMobil Pipeline Company:

Date

For PHMSA:

Gregory Ochs, Director, Central Region

Date