May 10, 2022

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

Mr. Steven A. Yatauro
President & Chief Executive Officer
ExxonMobil Pipeline Company
22777 Springwoods Village Parkway
Spring, Texas 77389

Re: CPF No. 4-2021-029-NOPV

Dear Mr. Yatauro:

Enclosed is the Decision on the Petition for Reconsideration issued in the above-referenced case. For the reasons explained therein, the Decision grants your Petition. This is to acknowledge receipt of payment of the full civil penalty amount of $132,500 by wire transfer dated January 18, 2022. This case is now closed. This Decision constitutes the final administrative action in this proceeding. Service of this decision by electronic mail is effective upon the date of transmission and acknowledgement of receipt 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: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Ms. Caroline Henderson, Safety, Security, Health and Environmental Manager, ExxonMobil Pipeline Company, caroline.b.henderson@exxonmobil.com
Mr. William V. Murchison, Counsel for ExxonMobil Pipeline Company, Murchison Law Firm, vince.murchison@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. 4-2021-029-NOPV**
Petitioner.	)	

DECISION ON PETITION FOR RECONSIDERATION

Between June 15, 2020, and October 30, 2020, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted on-site pipeline safety inspections of the facilities and records of ExxonMobil Pipeline Company (ExxonMobil or Petitioner) in and around Lockport and Patoka, Illinois.[1] ExxonMobil, an affiliate of Exxon Mobil Corporation, transports crude oil, refined products, liquified petroleum gases, natural gases, and chemical feedstocks through more than 4,000 miles of pipeline and facilities in California, Florida, Illinois, Indiana, Louisiana, Massachusetts, Montana, Rhode Island, and Texas.[2]

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Petitioner, by letter dated June 3, 2021, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice).[3] In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that ExxonMobil committed five violations of 49 C.F.R. Part 195 (Items 2, 3, 4, 5 and 10), proposed assessing a civil penalty of $146,300 for two of the alleged violations (Items 2 and 4), and proposed ordering Petitioner to take certain measures to correct several of the alleged violations (Items 3, 5 and 10).[4] The Notice also included an additional five warning items pursuant to 49 C.F.R. § 190.205 (Items 1, 6, 7, 8 and 9), which warned the operator to correct the probable violations or face possible future enforcement action.[5]

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[1] The PHMSA representatives inspected ExxonMobil's facilities operating under Mobil Pipeline Company, Mustang Pipeline, LLC, and the ExxonMobil Pipeline Company. *See* Pipeline Safety Violation Report (Violation Report), (June 3, 2021), at 1 (on file with PHMSA).

[2] ExxonMobil Pipeline Company: Know More, https://www.exxonmobilpipeline.com/en/know-more (last accessed Apr. 29, 2022).

[3] *ExxonMobil Pipeline*, Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order, CPF No. 4-2021-029-NOPV (Notice) (June 3, 2021) (on file with PHMSA).

[4] *Id*., at 8-9.
[5] *Id*., at 8.

After requesting and receiving an extension of time to respond, ExxonMobil responded to the Notice by letter dated August 16, 2021 (Response).[6] ExxonMobil contested the alleged violation of 49 C.F.R § 195.432(b) (Item 3), offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced.[7] Petitioner did not request a hearing and therefore waived its right to one.

On December 28, 2021, pursuant to 49 U.S.C. §§ 60117 and 60122, and 49 C.F.R. § 190.213, the Associate Administrator for Pipeline Safety issued a Final Order finding that Petitioner committed the violations as alleged in the Notice (Final Order).[8] The Final Order assessed a reduced civil penalty of $132,500, pursuant to the authority of 49 U.S.C. § 60122 and 49 C.F.R. §190.221, and ordered Petitioner to take certain measures to correct certain violations, pursuant to the authority of 49 U.S.C. § 60118 and 49 C.F.R. § 190.217.[9] The Final Order also included the additional five warning items pursuant to 49 C.F.R. § 190.205, warning ExxonMobil to correct the probable violations or face possible future enforcement action.[10]

On January 18, 2022, Petitioner filed a Petition for Reconsideration pursuant to 49 C.F.R. § 190.243 (Petition).[11] In its Petition, ExxonMobil requested reconsideration of Item 3 of the Final Order, which found a violation of 49 C.F.R § 195.432(b).[12] It did not request reconsideration of the other Items within the Final Order. On the same date, Petitioner paid the assessed civil penalty amount of $132,500 for Items 2 and 4.

Standard of Review

Under 49 C.F.R. § 190.243, a respondent may petition the Associate Administrator for reconsideration of a Final Order that has been issued pursuant to § 190.213. Reconsideration is not an appeal or a completely new review of the record.[13] A respondent may ask for correction of an error or, in limited circumstances, may present previously unavailable information. If a respondent requests consideration of additional facts or arguments, the respondent must submit the reasons they were not presented prior to the issuance of the Final Order. The Associate

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[6] ExxonMobil Pipeline Company Written Response CPF No. 4-2021-029-NOPV, dated August 16, 2021 (Response) (on file with PHMSA).

[7] *Id*.

[8] *ExxonMobil Pipeline Company*, Final Order, CPF No. 4-2021-029-NOPV (Final Order) (December 28, 2021) (on file with PHMSA).

[9] *Id*., at 5-8.

[10] *Id*., at 8-9.

[11] Petition for Reconsideration of ExxonMobil Pipeline Company, dated January 18, 2022 (Petition) (on file with PHMSA).

[12] *Id*.

[13] 49 C.F.R. § 190.243(a)-(d).

Administrator may grant or deny, in whole or in part, a petition for reconsideration without further proceedings.

Analysis

The Final Order found that Petitioner violated 49 C.F.R. § 195.432(b), which states:

> **§ 195.432(b) Inspection of in-service breakout tanks.**
> (a) ….
> (b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (exception section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under § 195.402(c)(3). The risk-based internal inspection procedures in API Std 653, section 6.4.3 cannot be used to determine the internal inspection interval.

During the on-site pipeline safety inspection, PHMSA representatives reviewed an API Standard 653 report page stating there were "illegal patches" under the shell section of Breakout Tank #901.[14] The report page said these illegal patches must be addressed when the tank bottom is replaced.[15] However, ExxonMobil did not provide any documentation during the PHMSA inspection that the illegal patch deficiency was reviewed or addressed by the Tank Maintenance Specialist (TMS) in accordance with its Tank Inspection Program Procedure.[16]

After receiving the Notice, ExxonMobil responded that the report page listing the illegal patches had erroneously been included, and that it was from another tank project (not involving a breakout tank) at a different facility in another geographic area and was not related to Breakout Tank #901.[17] Petitioner provided an updated API Standard 653 report page, which did not mention any illegal patches; however, Petitioner did not provide the complete out-of-service tank inspection report. Petitioner also stated it "believes that the inspection was completed as per [ExxonMobil's] procedures."[18]

The Final Order determined Petitioner's response was insufficient to withdraw the proposed violation because it did not provide any documentation demonstrating that the TMS reviewed the API Standard 653 report or associated repair plan for Breakout Tank #901.[19] ExxonMobil only

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14 Final Order, *supra*, at 3.

15 *Id*.

16 *Id*.

17 Response, *supra*, at 4.

18 Final Order, *supra*, at 3; Response, *supra*, at 4.

19 Final Order, *supra*, at 3.

provided its unsubstantiated statement that it "believed" an API Standard 653 inspection had occurred.[20] Consequently, Item 3 of the Final Order found that Petitioner violated § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric Breakout Tank #901 in accordance with API Standard 653 and its written operating procedure.[21] The Final Order included a Compliance Order that required ExxonMobil to review all potential deficiencies identified by API Standard 653 out-of-service inspections for Breakout Tank #901 in Lockport, Illinois, and provide documentation of the review and any remediation records that address the illegal patches mentioned in the inspection report.[22]

In its Petition, ExxonMobil again asserted that it had not violated § 195.432(b) because it had performed an API Standard 653 inspection for Breakout Tank #901.[23] In support of its assertion, Petitioner provided the complete API Standard 653 inspection report for Breakout Tank #901, performed by U.N.I. Engineering, Inc.,[24] and two declarations addressing the tank.[25] The declaration from Petitioner's Fixed Equipment Engineer states he reviewed the API Standard 653 report for Breakout Tank #901 and concluded there are no patches on the shell of the tank.[26] The declaration from a U.N.I. Engineer states the inspection report included in ExxonMobil's submission is the correct report for Breakout Tank #901.[27] Petitioner had not provided these records prior to issuance of the Final Order and asserted that it was not aware such additional information was needed by PHMSA prior to the Final Order.[28]

Based upon these newly submitted records, I find that Petitioner has satisfactorily demonstrated the evidence relied upon by the Final Order was erroneously identified as a record for Breakout Tank #901. The erroneous record contained information about a fuel oil tank that was unrelated to Breakout Tank #901, which services gasoline. The correct records for Breakout Tank #901, which Petitioner has provided in full, demonstrate the tank did not have "illegal patches" or other issues that impacted its suitability for service.

Accordingly, the record evidence is insufficient to show that ExxonMobil violated § 195.432(b) with regard to Breakout Tank #901. In making this determination, I evaluated all of the evidence

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[20] *Id*.

[21] *Id*., at 2-3.

[22] *Id*., at 8.

[23] Petition, *supra*, at 2.

[24] *Id*., at 16-140.

[25] *Id.*, at 14-15, 142-143.

[26] *Id.*, at 142-143.

[27] *Id.*, at 14-15.

[28] *Id.*, at 2.

of record, including the evidence and statements provided in ExxonMobil's Response and Petition.

CONCLUSION

After reviewing all of the evidence of record, I find it appropriate to withdraw Item 3 of the Final Order and its associated Compliance Order terms. As ExxonMobil did not petition for reconsideration of any other Items, the rest of the Final Order remains unchanged. Petitioner has paid in full the assessed civil penalty amount of $132,500 for Items 2 and 4 by wire transfer dated January 18, 2022. Petitioner has also completed the compliance terms for Items 5 and 10 as recognized by the Final Order. Therefore this case is now closed.

This Decision on Reconsideration is the final administrative action in this proceeding.

	May 10, 2022
________________________________	________________________
Alan K. Mayberry Associate Administrator for Pipeline Safety	Date Issued