

September 11, 2024

VIA ELECTRONIC MAIL TO: wael.sawan@shell.com

Wael Sawan
Chief Executive Officer
Shell Pipeline Company LP
WCK Building A
150 North Dairy Ashford Road
Houston, Texas 77079

Re: CPF No. 4-2023-010-NOPV

Dear Mr. Sawan:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a reduced civil penalty of \$169,700, and specifies actions that need to be taken by Shell Pipeline Company LP, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by e-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: Mr. Bryan Lethcoe, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Sean Guillory, President, Shell Pipeline Company LP, sean.guillory@shell.com
Ms. Deborah Price, Integrity & Regulatory Services Manager, Shell Pipeline Company LP,
deborah.price@shell.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

Shell Pipeline Company LP,

Respondent.

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CPF No. 4-2023-010-NOPV

FINAL ORDER

From May 9 through November 22, 2022, 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 Shell Pipeline Company LP's (Shell or Respondent) hazardous liquid pipeline systems in Texas, Louisiana, and the Gulf of Mexico.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated June 2, 2023, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Shell had committed three violations of 49 C.F.R. Part 195, proposed assessing a civil penalty of \$176,000 for the alleged violations, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included an additional warning item pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violation or face possible future enforcement action.

Shell responded to the Notice by letter dated June 30, 2023 (Response). Shell responded to all allegations, offered additional information in response to the Notice, requested that the proposed civil penalty be reconsidered, and that the proposed compliance order be withdrawn. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b), which states:

§ 195.420 Valve maintenance.

(a) ...

(b) Each operator shall, at intervals not exceeding 7½ months, but at

least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b) by failing on 56 separate instances to inspect 35 mainline valves at the required intervals during the calendar years of 2020 through and including 2022.

In its Response, Shell admitted it had documentation issues regarding its mainline valve inspections from 2020 through 2022, but stated that all required inspections did occur in accordance with § 195.420(b). Shell explained that it transitioned to a new data management system to track inspection and maintenance tasks in 2020 and implemented that system in the field in 2022.¹ However, Shell acknowledged that there were technical difficulties providing records from the new system during PHMSA's inspection.² Shell provided multiple screenshots from its new system as proof the inspections had occurred as required as part of its Response, and detailed the steps it has taken to remedy its technical issues since the PHMSA inspection.³ Shell requested that the violation and civil penalty be reevaluated based on the screenshots and explanation provided within its Response.

PHMSA has stated in prior enforcement matters that every, "Respondent is responsible for compliance with the pipeline safety regulations, which includes sound record keeping. Without this history, an operator will have difficulty determining areas where there are problems that need to be addressed."⁴ While Shell has provided an explanation for the missing records at the time of the inspection, as well as additional documentation, a review of that documentation reveals that its records are still incomplete.

While Attachment 1 does provide some clarity, there are still multiple instances where the inspection history is either incomplete or the interval between inspections is greater than what is allowed by the pipeline safety regulations. First, there are no records of inspection for valve number 2044008 included in the Response. Additionally, the screenshots provided in the Response indicate only one inspection of the mainline valve occurred in 2020 for valve numbers 2042012, 2064000, 2064002, 2064009, 2144098, 2131321, 1000356, 1032009, 2404338, 2404340, 2406171, 3217501, and 3217508.⁵ Attachment 1 further indicates a missing or late inspection in 2022 for valve number 2336005.⁶ Moreover, Attachment 1 indicates that valve numbers 1002011 and 1002013 each had inspections occur at intervals greater than 7½ months, with an inspections occurring on April 28, 2021, January 6, 2022, and October 27, 2022.⁷ Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R.

¹ Response, at 1-2.

² Response, at 2.

³ Id.

⁴ *In the Matter of Ozark Gas Transmission*, Final Order 2-2002-1004, 2003 WL 26473449 at *2 (April 29, 2003).

⁵ Respondent's Attachment 1, at 2, 4-10, 29, 31, 37, 44-45.

⁶ Respondent's Attachment 1, at 12.

⁷ Respondent's Attachment 1, at 20-21.

§ 195.420(b) by failing to inspect its mainline valves at intervals not exceeding 7½ months, but at least twice each calendar year to determine that it is functioning properly, as required.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service for which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment as required. Specifically, the Notice alleged from 2020 to 2022, Shell failed to inspect seven overpressure safety devices once a calendar year at intervals not exceeding 15 months on 11 instances. Additionally, the Notice alleged that from 2020 to 2022, Shell failed to inspect seven overpressure safety devices twice a calendar year at intervals not exceeding 7½ months on a highly volatile liquid system on 14 instances.

In its Response, Shell admitted it had documentation issues with regards to its overpressure device inspections, but stated it had conducted the inspections at the appropriate intervals in accordance with the code.⁸ Shell explained that the issue with documentation was the same as it described for Item 1 and provided screenshots from its data management program as proof it had conducted the required inspections as part of its Response. A review of Respondent's Attachment 2 confirms that all of the inspections on the Crude System Valve Equipment referenced in the Notice were conducted at the appropriate intervals. However, the documentation is still incomplete regarding the Highly Volatile Liquid System Valve Equipment referenced in the Notice.

A review of Attachment 2 indicates that only one inspection, instead of the required two, occurred in 2020 on overpressure safety device numbers 1025341, 2194027, 1025340, 3207629, and 1009765.⁹ Additionally, the screenshots provided are missing relevant information for some of the inspections, including who conducted the inspection and what the results of the inspection were, in regards to inspections conducted on overpressure safety device numbers 2194024, 1025341, 2194025, 1025340, 3207629, and 1009765.¹⁰ Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect overpressure safety devices twice a calendar year at intervals

⁸ Response, at 3.

⁹ Respondent's Attachment 2, at 12, 14, 18, 20 and 22.

¹⁰ Respondent's Attachment 2, at 11, 13, 16, 19, 21 and 23.

not exceeding 7½ months on a highly volatile liquid system as required.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b), which states:

§ 195.505 Qualification program.

- (a) ...
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(b) by failing to follow its written qualification program to confirm through evaluation that all individuals performing covered tasks are qualified as required. Specifically, the Notice alleged that an unqualified employee performed 37 valve inspections, which is a covered task, from December 2020 to July 2022, without supervision of a qualified inspector.

In its Response, Shell did not contest the violation. Shell acknowledged that the employee in question performed valve inspections without being qualified and stated that they were qualified the day after the discrepancy was discovered.¹¹ Shell further stated that it had conducted a full review of all other employee task lists and did not find any similar discrepancies and that it had implemented a system to prevent similar occurrences in the future.¹²

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(b) by failing to ensure that all individuals performing covered tasks are qualified.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

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.¹³

In determining the amount of a civil penalty under 49 U.S.C. § 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; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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

¹¹ Response, at 3.

¹² Id.

¹³ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

proposed a total civil penalty of \$176,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$62,900 for Respondent's violation of 49 C.F.R. § 195.420(b), for failing to inspect its mainline valves at intervals not exceeding 7½ months, but at least twice each calendar year to determine that it is functioning properly, as required. As discussed above, in its Response, Shell stated that it had conducted the mainline valve inspections at the required intervals but could not provide documentation of each inspection at the time of PHMSA's inspection. Shell's Response further described its record keeping process, provided evidence of the completed inspections, and asked that the civil penalty be reconsidered based on its explanation and additional documentation. However, after reviewing all of the information provided in the Response, I found that a violation still exists. This is because the records are incomplete as to whether several inspections occurred and, in some cases, the records indicate the inspections of mainline valves occurred at an interval that exceeds 7½ months. Without a record of each inspection being completed, I cannot determine if the inspection had occurred and, if it had occurred, if the inspection was timely. Therefore, I find that this Item was appropriately assessed as an activities violation. Also, per the Region Recommendation, the proposed civil penalty assessed three instances, one for each calendar year of 2020, 2021, and 2022.¹⁴ As I noted, at least one instance of violation in each of those calendar years. I, therefore, do not find a basis to decrease the number of instances for this Item. Additionally, as some of the valves are located in a high consequence area, I find that the gravity was appropriately assessed, as were the other civil penalty factors. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$62,900 for violation of 49 C.F.R. § 195.420(b).

Item 2: The Notice proposed a civil penalty of \$62,900 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to inspect overpressure safety devices twice a calendar year at intervals not exceeding 7½ months on a highly volatile liquid system as required. As described above, similar to Item 1, in its Response, Shell maintained it had conducted all required inspections but had documentation issues at the time of the PHMSA inspection. Shell described its record keeping process, provided evidence of completed inspections, and asked for the violation and civil penalty to be reconsidered based on its explanation and documentation. However, after reviewing all of the information provided, I found that a violation still exists. This is because the records were incomplete as to whether several inspections had occurred. Additionally, some of the records lacked the necessary information to determine who had conducted the inspection and what that inspector observed. As stated above, without a proper record of the inspection being completed, I cannot determine if the inspection occurred and, if it had occurred, if the inspection was timely. Therefore, I find that this Item was appropriately assessed as an activities violation. Also, per the Region Recommendation, the proposed civil penalty assessed three instances, one for each calendar year of 2020, 2021, and 2022.¹⁵ Upon review of the documents provided by Respondent, however, I find the instances of violation only occurred in the calendar years of 2020 and 2021 for this Item. Therefore, I find that the number of instances should be assessed at two instead of three. As some of the valves are located in a high consequence area, I find that the gravity was appropriately assessed, as were the other civil penalty factors. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a

¹⁴ Region Recommendation, at footnote 1.

¹⁵ Region Recommendation, at footnote 3.

reduced civil penalty of \$56,600 for violation of 49 C.F.R. § 195.428(a).

Item 3: The Notice proposed a civil penalty of \$50,200 for Respondent's violation of 49 C.F.R. § 195.505(b), for failing to ensure that all individuals performing covered tasks are qualified. In its Response, Shell acknowledged the individual had been performing inspections without being qualified, described the actions it took to both qualify that individual and safeguard that the violation would not happen again, and asked that because it was a first-time offense and there was no risk to pipeline safety, that the civil penalty be reduced. While the individual in question was qualified for the task the day after the discrepancy was discovered, as some of the valves they had inspected while not being properly qualified for the task were located a high consequence area, so the gravity was properly assessed. Additionally, while the steps Shell has taken to prevent this event from occurring in the future are commendable, that is not a basis to reduce a civil penalty because the corrective action occurred after PHMSA discovered the violation occurred.¹⁶ Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$50,200 for violation of 49 C.F.R. § 195.505(b).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$169,700**.

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 C.F.R. §§ 195.420(b) and 195.428(a) respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601.

¹⁶ See *In the Matter of Oasis Midstream Partners LP, a General Partner of Oasis Petroleum Inc.*, Final Order 3-2019-5020, 2020 WL 6870720 at 7 (August 19, 2020) ("While Oasis is to be commended for improving its internal processes to ensure compliance with the pipeline safety regulations, such post-inspection activities do not warrant the withdrawal of, or a reduction in, a proposed civil penalty.")

With regard to the violation of § 195.420(b) (Item 1), Respondent argued it had conducted the mainline valve inspections as required per the pipeline safety regulations and provided additional documentation as proof. However, as stated above, the documentation provided was incomplete to determine whether all necessary inspections were conducted at the required intervals. However, Attachment 1 did provide evidence that inspections of mainline valve numbers 1020307, 1020305, 1020326, 1009628, 1012904, 1014255, 1014256, 1024300, 1024301, 2130495, 2404992, 2404993, 2404994, 2405001, 2405003, 2410000, 2410002, 2410004, 2410015, and 2410020 had occurred in a timely manner. Therefore, the compliance order will be modified to only include the mainline valves not listed above.

With regard to the violation of § 195.428(a) (Item 2), Respondent argued it had conducted the overpressure safety device inspections as required per the pipeline safety regulations and provided additional documentation as proof. However, as stated above, the documentation provided was incomplete to determine whether all necessary inspections were conducted at the required intervals. However, Attachment 2 did provide evidence that inspections of overpressure safety device numbers 1019997, 1019998, 2131376, 1029264, 1029259, 1012490, and 1012491 had occurred in a timely manner. Therefore, the compliance order will be modified to only include the overpressure safety devices not listed above.

For the above reasons, the Compliance Order is modified as set forth below.

Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.420(b) (**Item 1**), Respondent must inspect mainline valve numbers 2044008, 2042012, 2064000, 2064002, 2064009, 2144098, 2131321, 1000356, 1032009, 2404338, 2404340, 2406171, 3217501, 3217508, 2336005, 1002011, and 1002013, maintain inspection records as required by its procedure, and provide the mainline valve inspection records to the Director, Southwest Region within 90 days of issuance of the Final Order.
2. With respect to the violation of § 195.428(a) (**Item 2**), Respondent must inspect and test overpressure safety device numbers 2194024, 1025341, 2194027, 2194025, 1025340, 3207629, 1009765, maintain the inspection records as required by its procedure, and provide the overpressure safety device inspection records to the Director, Southwest Region within 90 days of issuance of the Final Order.

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.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and (2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223 for adjusted amounts), 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.

WARNING ITEM

With respect to Item 4, the Notice alleged a probable violation of Part 195, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 195.573(e) (**Item 4**) — Respondent’s alleged failure to correct identified annual cathodic protection deficiencies on its Ship Shoal 22 Loop at MP 7.5 within a reasonable time, as required.

Shell acknowledged the deficiencies were not corrected in a reasonable time in its Response and stated the issue has since been remedied. Under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred. If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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. The written petition must be received no later than 20 days after receipt of the 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 filing of a petition automatically stays the payment of any civil penalty assessed. The other 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.

September 11, 2024

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued