

July 1, 2013

The Honorable Edward J. Markey
United States House of Representatives
2108 Rayburn House Office Building
Washington, D.C. 20515-2105

Dear Representative Markey,

I am writing on behalf of ExxonMobil Pipeline Company ("EMPCo") in response to your June 14, 2013, letter to Mr. Rex Tillerson regarding the March 29, Pegasus pipeline incident in Mayflower, Arkansas.

Your letter posed a series of questions premised on the assumption that EMPCo's response to the Mayflower incident should have been based on a 4 year old response plan rather than EMPCo's most current 2013 version of its Corsicana Response Zone Manual. Federal regulations, reflecting sound public policy, required EMPCO to use its most current version of the Corsicana Response Zone Manual. Those regulations also establish how frequently the Manual must be updated, how the required hypothetical Worst Case Discharge must be calculated and PHMSA's responsibilities to review revisions to the Manual. EMPCO's 2013 Corsicana Response Zone Manual complied with those federal regulations.

The requirement to have a response plan for a release from an oil pipeline can be found in the DOT/PHMSA regulations at 49 CFR Part 194. It must be noted that Part 194 does not include any requirements governing how a pipeline must be operated, including how the pipeline must be operated when a leak is identified or suspected. Those regulations governing pipeline operations are set out in 49 CFR Part 195.

The following 49 CFR Part 194 regulations are relevant to the questions you have raised:

A. Response Plan Review and Updating: 49 CFR §194.121 requires an operator to "update its response plan to address new or different operating conditions or information." Section 194.121(b) states, "If new or different operating condition or information would substantially affect the implementation of a response plan, the operator must *immediately* modify its response plan to address such a change, and within 30 days of making such a change, submit the change to PHMSA" (emphasis

added). That section sets out examples of changes in operating conditions or information that would require an operator to update a plan, including in §194.121(b)(8), "Any other information relating to circumstances that may affect full implementation of the plan." It must be noted that this regulation requires the operator to first change its response plan and only later advise PHMSA of the change. It does not require an operator to defer implementing a change until PHMSA approves it. Reading the regulation to require prior PHMSA approval of a change would ignore the requirement for and minimize the importance of "immediate" modification.

B. PHMSA Handling of Response Plan Updates: 49 CFR §194.121(c) provides that when an operator submits a change to a response plan to PHMSA, the agency will review it to determine if the "change to a response plan does not meet the requirements of this part," and, if it fails to meet the requirements, "PHMSA will notify the operator of any alleged deficiencies." This section does not set out any requirement for PHMSA to advise an operator that it "approves" the change to a response plan. The process described in this regulation is consistent with PHMSA's handling of EMPCo's response plans. While PHMSA has advised you that it approved the 2009 version of EMPCo's Corsicana Response Zone Manual, we have no record that it ever communicated that approval to EMPCo. In fact, we are unaware of any instance in the last 7+ years when PHMSA provided us with a written approval of any of the multiple plan revisions we submitted per the regulations.

C. Worst case Discharge Calculation: 49 CFR §194.105 establishes how the hypothetical Worst Case Discharge in each response zone should be determined and, for the Pegasus Pipeline in the Corsicana Zone, requires that the determination utilize the section of the line with the highest potential release volume based on the volume of oil contained between isolation valves. Consistent with this regulation, the Worst Case Discharge calculation for the Corsicana Response Zone was based upon a hypothetical complete failure of a pipeline segment between the Strawberry, Arkansas pump station and the Conway, Arkansas pump station assuming loss of the entire contents of the line. Utilizing the section of line where the Mayflower failure occurred in a Worst Case Discharge calculation would not have complied with the regulation. Section 194.105 also requires that the operator utilize its "best estimate" of the time required to shut down the line for the Worst Case Discharge calculation. Since 2009, when the line was last modified, we had not experienced a spill or release that required a full shut down of the Pegasus line, thus we did not have actual experience on which to base an estimate. The 18 minute shutdown time in the 2013 Corsicana Response Zone Manual was our best estimate of the time required to shut down the section of line utilized in the Worst Case Discharge scenario. Since the shutdown of a different section of line has since been accomplished in 16 minutes, if anything, we have now essentially validated our 18 minute best estimate of shutdown time for purposes of a Worst Case Discharge calculation.

D. Required Response Resources: 49 CFR §194.115 reveals why a Worst Case Discharge estimate is necessary. Section 194.115 requires an operator to have "the resources necessary to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of a worst case discharge." As

our response plans reflect, increasing the estimated shutdown time by 6 minutes increased the Worst Case Discharge estimate from 74,270 barrels to 74,693 barrels - a 0.6% increase, which had no meaningful impact on our response capabilities. It was because EMPCo was prepared to respond to a 74,000+ spill from Pegasus that it was able to respond so promptly and effectively to the Mayflower release, which, while regrettable, was a small fraction of the Worst Case Discharge estimate. Operators generally come in for criticism when they lower the Worst Case Discharge estimates in their response plans or those estimates prove to be inadequate when a spill happens. In this case, EMPCo followed the regulations and increased its Worst Case Discharge estimate. The regulations worked exactly as intended and resulted in more than adequate resources being available to respond to the Mayflower release.

As we stated in our May 28, 2013, letter, within approximately 90 seconds after receiving the first alarm on March 29 the OCC controller for the Pegasus Pipeline took steps to validate that the alarms reflected a real event, concluded that the event was a likely leak on the pipeline, recognized the procedures she was trained to implement in response to such an event and began initiation of a full safe shutdown of the pipeline, which includes a carefully staged shutdown of all pumps along the entire length of the pipeline and full isolation of the section of the pipeline where the leak was located by closing mainline valves upstream and downstream of the rupture site. EMPCo's response to this incident complied with applicable DOT/PHMSA regulations and with the operative 2013 Corsicana Response Zone Manual.

EMPCo appreciates the opportunity to clarify and respond to the questions you have raised, and we hope that this letter has provided you with an enhanced understanding of the purpose and implementation of the Facility Response Plan requirements. Should you have any additional questions on this topic we would be glad to meet with you or your staff to discuss them.

Sincerely,



c: Cynthia Quarterman