

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 17, 2009

Mr. Vincent Kelley
Sr. Vice President
Refining and Supply
Sun Refining and Marketing (Sunoco R&M)
1735 Market Street
Suite LL
Philadelphia, PA 19103

CPF 3-2009-5016

Dear Mr. Kelley:

On October 24-28, 2005, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected your Toledo Refinery pipeline facilities in Toledo, Ohio.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. 195.406 Maximum operating pressure

(b) No operator may permit the pressure in a pipeline during surges or other variations from normal operations to exceed 110 percent of the operating pressure limit established under paragraph (a) of this section. Each operator must provide adequate controls and protective equipment to control the pressure within this limit.

Sunoco R&M exceeded 110% of the MOP (605 psig) on Line 59, which feeds the Buckeye York Street pumping station, on November 17, 2004, for a period of 34 minutes.

A hydrostatic test was conducted on Line 59 on October 7, 2004. The 688 psig test pressure established an MOP of 550.4 psig. A high pressure shutdown device was installed on Line 59 on October 29, 2004, however the device was not fully programmed (placed into operation) until February 22, 2005. On November 17, 2004, the pipeline was operated at pressures ranging from 621.6 to 697.5 psig for a period of 34 minutes. This pressure excursion reportedly resulted from a valve closure at the Buckeye pumping station. This issue was initially discovered by the Process Safety Management Coordinator while reviewing operating data, on March 11, 2005.

2. 195.573 What must I do to monitor external corrosion control?

(d) Breakout tanks. You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API Recommended Practice 651. However, this inspection is not required if you note in the corrosion control procedures established under Sec. 195.402(c)(3) why compliance with all or certain operation and maintenance provisions of API Recommended Practice 651 is not necessary for the safety of the tank.

Sunoco R&M has not cathodically protected three breakout tanks in accordance with API Recommended Practice 651. Sunoco R&M has also not indicated in their corrosion control procedures why cathodic protection of these breakout tanks is not necessary. Breakout Tank #'s 1601, 1602 and 16015 are not cathodically protected. This can be in compliance with the regulations if the operator notes in the corrosion control procedures why it is not necessary for the safety of the tank(s). In order to make that determination a number of items associated with the tanks need to be investigated. These include: Tank Design, Construction History, Type of Service, Inspection/Corrosion History, and Other Factors. Sunoco R&M has indicated

that these items were discussed internally in 2004, and those personnel that were involved agreed that cathodic protection was not required for continued safe/reliable operation of the breakout tanks. Only limited information has been provided concerning the 2004 study. An e-mail communication from October 18, 2005 indicates that the tanks are used for gas oil storage, and that they were scheduled to be taken out of service / decommissioned in 2008.

Tank #1602 was demolished late in 2008. A status update for Tank #'s 1601 and 16015 was provided via e-mail on September 1, 2009. The e-mail indicates that Sunoco R&M has decided Tanks #'s 1601 and 16015 will remain in service. Another study was completed per API 651, and it was determined that cathodic protection should be installed to protect the tank bottoms. Currently, separate projects involving installation of monitoring wells as a method of leak detection, and installation of cathodic protection for corrosion control of the tank bottoms are in the process of being implemented.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$32,500 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$32,500

Proposed Compliance Order

With respect to item 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Sunoco R&M. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted

information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 3-2009-5016** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Ivan A. Huntoon
Director, Central Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Sunoco R&M a Compliance Order incorporating the following remedial requirements to ensure the compliance of Sunoco R&M with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to the lack of cathodic protection or the adequate justification why such protection is not required on Breakout Tanks 1601 and 16015, Sunoco R&M must develop a plan (including the time frame) for installing and putting into service a cathodic protection system. In lieu of installing such a cathodic protection system, Sunoco R&M may provide adequate justification to demonstrate cathodic protection is not required. In either event, Sunoco R&M shall provide a response within 60 days of receipt of this notice outlining the status of plans for installation of a cathodic protection system or providing justification that a cathodic protection system is not required.
2. Sunoco R&M shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Ivan Huntoon, Director, Central Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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.