



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Avenue SE  
Washington DC 20590

FEB 13 2018

Mr. Todd Denton  
President  
Phillips 66 Pipeline, LLC  
1075 West Sam Houston Parkway N  
Suite 200, N82005  
Houston, TX 77043

**Re: CPF No. 4-2017-5003**

Dear Mr. Denton:

Enclosed please find the Final Order issued in the above-referenced case. It makes one finding of violation, assesses a civil penalty of \$62,200, and specifies actions that need to be taken by Phillips 66 Pipeline, LLC 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 certified mail is effective upon the date of mailing 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: Acting Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Mr. Van P. Williams, Senior Counsel, Phillips 66 Pipeline, LLC

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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**In the Matter of** )

**Phillips 66 Pipeline, LLC,** )

**CPF No. 4-2017-5003**

**Respondent.** )  
\_\_\_\_\_ )

**FINAL ORDER**

On October 31, 2016, pursuant to 49 U.S.C. § 60117, representatives 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 Phillips 66 Pipeline, LLC (Phillips 66 or Respondent), in Nederland, Texas. Phillips 66 is the owner and operator of petroleum products, crude oil, and natural gas pipeline systems across the United States.<sup>1</sup>

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated February 13, 2017, 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 Phillips 66 violated 49 C.F.R. § 195.432(b), and proposed assessing a civil penalty of \$62,200 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

Phillips 66 responded to the Notice by letter dated March 16, 2017 (Response). The company contested the allegation and requested a hearing, which was subsequently held on August 23, 2017, in Houston, Texas, before a Presiding Official from the Office of Chief Counsel. At the hearing, Respondent was represented by counsel.

**FINDING OF VIOLATION**

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

**§ 195.432 Inspection of in-service breakout tanks.**

- (a) . . .
- (b) Each operator must inspect the physical integrity of in-service

<sup>1</sup> <http://www.phillips66midstream.com/EN/Pages/pipelines.aspx> (accessed November 21, 2017).

atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except 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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, *see* § 195.3). Specifically, the Notice alleged that Phillips 66 failed to conduct an inspection of Tanks 122, 126, and 129 by their required inspection date in accordance with API Standard 653 section 6.4.

At the hearing, Respondent did not contest this allegation of violation, and voluntarily agreed to an inspection schedule with the Region. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653 (except section 6.4.3, *Alternative Internal Inspection Interval*) (incorporated by reference, *see* § 195.3).

This finding of violation will be considered a prior offense 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.<sup>2</sup> 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; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. 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 proposed a total civil penalty of \$62,200 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$62,200 for Respondent's violation of 49 C.F.R. § 195.432(b), for failing to inspect the physical integrity of in-service atmospheric and low-

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<sup>2</sup> These amounts are adjusted annually for inflation. *See, e.g., Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties*, 82 Fed. Reg. 19325 (April 27, 2017).

pressure steel above-ground breakout tanks according to API Std 653. At the hearing, Phillips 66 did not contest the allegation or present any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$62,200 for violation of 49 C.F.R. § 195.432(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 **\$62,200**.

### **COMPLIANCE ORDER**

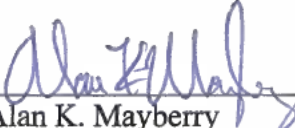
The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 195.432(b). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. 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 § 195.432(b) (**Item 1**), Respondent must remove Tank 126, the remaining tank in service, from service within 15 days following receipt of the Final Order. Phillips 66 must provide PHMSA with documentation that verifies completion of this item within 15 days following receipt of the Final Order.
2. Phillips 66 must provide PHMSA with a written plan outlining the timing for completing the internal inspection for Tank 126 in accordance with API 653, within 15 days following receipt of the Final Order. Following submission of this written plan, Phillips 66 must provide monthly status reports to PHMSA documenting the company's progress in completing the internal inspection for Tank 126 in accordance with their written plan.
3. Phillips 66 must provide PHMSA with preliminary and final inspection reports regarding the internal inspections of Tanks 122, 126, and 129 within 10 days that Phillips 66 receives and/or completes the reports.
4. All documentation pertaining to the above compliance items should be sent to the Director of the Southwest Region, Pipeline and Hazardous Materials Safety Administration.
5. It is requested (not mandated) that Phillips 66 maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. 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.

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.

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

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, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this 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.

  
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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

FEB 13 2018

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Date Issued