



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

SEP 11 2015

1200 New Jersey Avenue SE
Washington, DC 20590

Mr. C. Todd Denton
President
Phillips 66 Pipeline LLC
Pinnacle Westchase PWC 078-7150-09
3010 Briarpark Drive
Houston, Texas 77042

Re: CPF No. 4-2014-5011

Dear Mr. Denton:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$175,300, 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 deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS
Mr. Todd Tullio, Manager, Regulatory Compliance, Phillips 66 Pipeline LLC
Mr. Dave Barney, Manager, Engineering & Projects Downstream, Phillips 66 Pipeline LLC
Mr. Van Williams, General 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**

_____)
In the Matter of)

Phillips 66 Pipeline LLC,)
a subsidiary of Phillips 66,)

Respondent.)
_____)

CPF No. 4-2014-5011

FINAL ORDER

Between April 1 and November 22, 2013, 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 Phillips 66 Pipeline LLC's (Phillips or Respondent) facilities and records located in Texas and Oklahoma. Phillips, a wholly-owned subsidiary of Phillips 66, operates approximately 12,000 miles of pipelines in the United States, through which it transports raw and finished petroleum products.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated May 13, 2014, a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the NOPV proposed finding that Phillips had violated 49 C.F.R. §§ 195.402, 195.505, 195.432, and 195.452, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also proposed assessing Respondent a civil penalty of \$175,300 for these alleged violations. The warning items require no further action, but the operator is warned to correct the probable violations or face possible enforcement action.

Phillips responded to the Notice by letter dated June 13, 2014 (Response). In its Response, Phillips stated it "elects not to contest the violations stated in the Notice,"² but raised objections to several of the proposed findings of violation and certain portions of the Proposed Compliance Order, and further requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing and therefore has waived its right to one.

¹ Phillips 66 Pipeline, LLC, website: <http://www.phillips66pipeline.com/EN/Pages/index.aspx> (last visited January 12, 2015).

² Response at 1.

FINDINGS OF VIOLATION

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure the manual is effective. This manual shall be prepared before initial operations of a pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by not following its own cathodic-protection testing procedure, as set forth in its written procedural manual. Specifically, the Notice alleged that Phillips violated this procedure when annually testing PHMSA-jurisdictional breakout tanks ##201 and 202 in 2011, 2012, and 2013. According to the Notice, Phillips allegedly conducted only one structure-to-soil potential reading per year, instead of the required four readings at evenly-spaced locations around the perimeter of the tanks, as required by Respondent's procedure, *Phillips 66 Pipeline, MPR 6018: Cathodic Protection Testing, Rev. 9, Section 7.3.4.1 (Effective Date: 2012-03-07)*.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its own written cathodic-protection testing procedure.

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

§ 195.505 Qualification program.

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

- (a) Identify covered tasks;
- (b) Ensure thorough evaluation that individuals performing covered tasks are qualified;

The Notice alleged that Respondent violated 49 C.F.R. §§ 195.505(a-b) by failing to ensure, through evaluation, that certain Phillips employees were qualified to perform covered tasks on 29 separate occasions. Seventeen of these incidents took place on April 26, 2013, when Phillips allegedly failed to ensure that the field inspection and testing of overfill protection devices on 17 PHMSA-regulated aboveground breakout tanks in Pasadena, Texas, were performed by a properly qualified employee. An additional 11 violations allegedly occurred from January 17-28, 2013, when Phillips failed to ensure that a qualified employee performed annual visual inspections of 11 aboveground storage tanks greater than 10,000 gallons located in Pasadena,

Texas. The last violation occurred on February 16, 2010, when Phillips allegedly failed to ensure that two qualified employees conducted a span and exposed pipe inspection.

Respondent did not contest these allegations of violation. Accordingly, based on a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.505(a-b) by failing to ensure, through evaluation, that employees were qualified to perform covered tasks on 29 separate occasions.

Item 4: 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 atmospheric and low-pressure steel aboveground breakout tanks according to API Standard 653 (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the operators and maintenance manual under § 195.402(c)(3).

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service, aboveground breakout tanks in accordance with American Petroleum Institute Standard 653 (API 653) (incorporated by reference in 49 C.F.R. § 195.3). Specifically, the Notice alleged that Phillips violated Section 4.4.5.1 of API 653 by using a bottom-side corrosion rate of zero to establish an internal corrosion rate for Tank #1301, even after discovering evidence of corrosion on the bottom side of the tank.

Under 49 C.F.R. § 195.432(b), operators must follow Section 4.4.5.1 of API 653 in establishing a method for calculating the minimum acceptable thickness of the bottoms of breakout tanks.³ This method is represented by the equation

$$MRT = (\text{Minimum of } RT_{bc} \text{ or } RT_{ip}) - O_r (StP_r + UP_r).^4$$

In this equation, UP_r represents the maximum rate of corrosion on the bottom side of the breakout tank; further, unless the cause of corrosion has been removed, when the bottom side of a breakout tank has been repaired, this area must be evaluated with the corrosion rate for the repaired area.⁵

³ API 653, Fourth Edition, Section 4.4.5.1 (April 2009) (“An acceptable method for calculating the minimum acceptable bottom thickness for the entire bottom or portions thereof is as follows...”).

⁴ *Id.*

⁵ *Id.* (“NOTE 1 [to Section 4.4.5.1] For areas of a bottom that have been scanned by the magnetic flux leakage (or exclusion) process, and do not have effective cathodic protection, the thickness used for calculating UP_r must be the lesser of the MFL threshold or the minimum thickness of corrosion areas that are not required. The MFL threshold is defined as the minimum remaining thickness to be detected in the areas inspected. This value should be predetermined by the tank owner based on the desired inspection interval.”)

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to follow Section 4.4.5.1 of API 653. According to PHMSA, Phillips did not adhere to Section 4.4.5.1 when it calculated the maximum corrosion rate on the repaired bottom side of breakout tank #1301, and in doing so, failed to use the correct corrosion rate for this repaired area.

In its Response, Phillips contested the allegation of violation, asserting that the corrosion rate used was appropriate under Section 4.4.5.1. Respondent acknowledged that it had performed a Magnetic Flux Evaluation (MFE) on the bottom side of Tank #1301 in 2004, which showed that the bottom side of the tank did not have uniform thickness – that one identified area had 0.180 remaining wall thickness and the rest of the tank bottom had a thickness exceeding 0.180.⁶ However, it argued that “the complete bottom scan showed no evidence of extensive bottom side corrosion anomalies.”⁷ Therefore, Phillips decided that the existing cathodic protection system for the tank was effective and that a bottom-side corrosion rate of zero was appropriate under Section 4.4.5.1. However, “as an added measure of assurance,” the company installed a 0.250-inch steel patch plate over this identified area “so as to assure minimal required thickness and cathodic protection for this area.”⁸

I disagree that such actions constitute compliance with API 653. First, Respondent’s records show that it discovered evidence of corrosion on the bottom side of Tank #1301, but still assumed a bottom-side corrosion rate of zero to determine the internal inspection corrosion rate for the tank. As noted above, such an assumption is not allowed under Section 4.4.5.1, unless the cause of the corrosion has been “removed.”⁹ Phillips installed the steel plate patch in one identified area – but this did not remove the cause of the corrosion, nor is there any indication in the record that Phillips took any other action to remove the cause.¹⁰ Therefore, the methodology used to calculate the corrosion growth rate was invalid, resulting in an excessively long interval between inspections.

Accordingly, after considering all of the evidence, I find Respondent violated 49 C.F.R. § 195.432(b), by failing to inspect the physical integrity of in-service, aboveground breakout tanks in accordance with Section 4.4.5.1 of API 653.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(h)(2), which states:

“Areas of bottom side corrosion that are repaired should be evaluated with the corrosion rate for the repaired area unless the cause of corrosion has been removed. The evaluation is done by using the corrosion rate of the repaired area for UPr and adding the patch plate (if used) thickness to the term ‘minimum of RT_{bc} or RT_{ip}.’” (emphasis added).

⁶ Response at 6 – 7.

⁷ *Id.*

⁸ *Id.*

⁹ See *supra* note 5.

¹⁰ Response, at 6 – 7.

§ 195.452 Pipeline integrity management in high consequence areas.

(a) . . .

(h) *What actions must an operator take to address integrity issues?*

(1) . . .

(2) *Discovery of condition.* Discovery of a condition occurs when an operator has adequate information about the condition to determine that the condition presents a potential threat to the integrity of the pipeline. An operator must promptly, but no later than 180 days after an integrity assessment, obtain sufficient information about a condition to make that determination, unless the operator can demonstrate that the 180-day period is impracticable.

The Notice alleged that Respondent violated § 195.452(h)(2) by failing to obtain sufficient information within 180 days of an integrity assessment to determine that a condition presents a potential threat to the integrity of the pipeline.

Specifically, the Notice alleged that on October 11, 2009, Phillips ran a “smart pig” assessment of its WT-80 pipeline and received a preliminary report from its vendor alerting the company to four anomalies that met the company’s own criteria for action. On April 7, 2010, two days before the 180-day deadline under § 195.452(h)(2), Respondent received the final report from the vendor. On April 16, 2010, or roughly a week after the 180-day deadline had passed, Phillips allegedly loaded the tool-run data into its computer system for analysis, subsequently reviewed the data itself, and discovered a serious anomaly that, in the company’s opinion, required immediate action. On April 28, 2010, the company reduced the pipeline’s operating pressure at this anomaly site to 625 psi.

In its Response, Respondent contested this allegation of violation, asserting that the 180-day deadline was impracticable in this case. According to Phillips, the October 11, 2009 assessment involved the use of an ultrasonic testing (UT) crack tool.¹¹ Respondent asserted that due to the nature of this particular tool run, it was impracticable to obtain sufficient information about the “immediate repair” condition revealed by this run within the 180-day deadline. Phillips asserted that none of the vendors with whom it contracted could perform a crack tool analysis, process the results of this test, and provide these results to Phillips within the 180-day deadline.¹²

Respondent noted further that its vendor delivered the final report of the October 11, 2009 integrity management test on April 7, 2010 – only two days before the 180-day deadline. Phillips claimed that after it received this document, it had to take multiple additional steps before it could make a determination regarding a potential integrity threat, thus making compliance impracticable.¹³

¹¹ *Id.* at 7 – 8.

¹² *Id.*

¹³ *Id.*

I am unpersuaded by Respondent's argument. The record reveals that on November 9, 2009, only four weeks after Phillips ran the UT crack tool through the WT-80 pipeline, the company received the vendor's preliminary report, which noted four "Company Priority Criteria" anomalies that met Phillips' own criterion of >160 mils in depth.¹⁴ In other words, Phillips received a report containing information on four anomalies that, under the company's own criteria, could potentially present integrity threats to the pipeline, five months before the 180-day deadline, and yet did nothing.¹⁵ As noted above, Respondent later received the vendor's final report two days before the 180-day deadline – a report which also noted anomalies on the WT-80 pipeline – but still took no action until after the deadline had passed.¹⁶

Phillips' only defense is that, in this case, the UT crack tool posed particular problems that prevented the vendor from providing a timely analysis and that Phillips had to upload the data from the final report into its computer system and review it, a process that stretched beyond the 180-day time frame.¹⁷ However, Phillips failed to provide any evidence demonstrating *why* it was impracticable for the vendor to provide the data or for Phillips to derive sufficient information from the preliminary report submitted by its vendor on November 9, 2009, to make the requisite determinations within 180 days.

It is well recognized that one of the main purposes of getting a preliminary in-line inspection (ILI) report within weeks after a "pig" run is to see whether or not there are any anomalies serious enough to warrant prompt action before receipt of the final report.¹⁸ In this case, Phillips did receive a timely preliminary report that showed four noteworthy anomalies but the company failed to make any determination under § 195.452(h)(2) within the 180-day period.

PHMSA's published enforcement guidance reinforces the notion that discovery of a condition detrimental to the integrity of a pipeline should occur at the earliest opportunity after an ILI inspection¹⁹ and that discovery can occur at various points in the process, including "when the vendor notifies the operator of a condition detrimental to the integrity of the pipeline; (2) when the operator receives a preliminary report from the vendor; (3) when the operator receives the final report from the vendor; or (4) when the operator performs a validation dig."²⁰ The importance of timely discovery is also confirmed by many previous PHMSA enforcement actions, which have held that discovery must occur within the 180-day deadline unless the

¹⁴ Pipeline Safety Violation Report (Violation Report), (May 13, 2014) (on file with PHMSA), at 34.

¹⁵ *Id.* at 271.

¹⁶ Response, at 7 – 8.

¹⁷ Notice at 5; *see also* Response at 7 – 9.

¹⁸ *See* 49. C.F.R. § 195.452(h)(4) for the various deadlines to remediate different types of anomalies.

¹⁹ PHMSA, Operations and Maintenance Enforcement Guidance, Part 195, Subpart F (Enforcement Guidance) 1, 94 ("Discovery of a condition should occur at the earliest opportunity.") (*citing* 67 FR 1653, January 14, 2002), <http://www.phmsa.dot.gov/foia/e-reading-room> (site last visited January 26, 2015).

²⁰ Enforcement Guidance at 94.

operator can prove such time frame to be impracticable.²¹

In this case, I cannot see that the deadline was impracticable. Accordingly, after considering all of the evidence, I find Respondent violated 49 C.F.R. § 195.452(h)(2) by failing to obtain sufficient information within 180 days of an integrity assessment to determine that a condition presents a potential threat to the integrity of the pipeline.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b), which states, in relevant part:

§ 195.452 Pipeline integrity management in high consequence areas.

- (a)
- (b) *What program and practices must operators use to manage pipeline integrity?* Each operator of a pipeline covered by this section must:
 - (1) Develop a written integrity management program that addresses the risks on each segment of pipeline in the first column of the following table not later than the date in the second column: . . .
 - (5) Implement and follow the program.

The Notice alleged that Respondent violated 49 C.F.R. § 195.452(b) by failing to implement and follow certain changes in its written Integrity Management Program to ensure that its written manual and forms were properly maintained and implemented. Specifically, the Notice alleged that Phillips failed to update and follow *Section 5.6.3* of its *Integrity Management Manual*, entitled *Inspection and Repair, Pipeline Maintenance and Leak Report (Section 5.6.3)*.

As a result of the alleged failure to update and follow *Section 5.6.3*, Phillips' employees purportedly used outdated forms and procedures when conducting Integrity Management tasks. Specifically, the Notice asserted that Respondent's failure to update and follow *Section 5.6.3* led to its employees inaccurately recording data on several occasions, one of which involved mishandling repairs, and failing to complete several maintenance and construction-related forms. Lastly, the Notice alleged that Phillips corrected these forms, and the data on the forms, only after PHMSA brought these inaccuracies to Respondent's attention.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.452(b) by failing to implement certain changes that had been made in its Integrity Management Program to ensure that its written manual and forms were properly maintained and implemented.

²¹ See, *In the Matter of ConocoPhillips*, Final Order, C.P.F. No. 4-2005-5037 (January 9, 2007) (where PHMSA found that Respondent did not provide sufficient proof to rebut the evidence presented by the agency that the company had sufficient information from the ILI reports to enable discovery of the conditions within the 180-day deadline). See also, *In the Matter of Enbridge Energy*, Final Order, C.P.F. No. 3-2012-5013 (September 7, 2012); and *In the Matter of Kinder Morgan Energy Partners, LP*, Final Order, C.P.F. No. 2-2011-5002 (June 9, 2011 (available at www.phmsa.dot.gov/pipeline/enforcement)).

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 195.452(f)(1), which states:

§ 195.452 Pipeline integrity management in high consequence areas.

(a)

(f) *What are the elements of an integrity management program?* An integrity management program begins with the initial framework. An operator must continually change the program to reflect operating experience, conclusions drawn from results of the integrity assessments, and other maintenance and surveillance data, and evaluation of consequences of a failure on the high consequence area. An operator must include, at minimum, each of the following elements in its written integrity management program:

(1) A process for identifying which pipeline segments could affect a high consequence area:

The Notice alleged that Respondent violated § 195.452(f)(1) by failing to identify all pipeline segments that could affect a high consequence area (HCA).²² Specifically, the Notice alleged that Phillips had a deficient process for identifying which pipeline segments could affect an HCA, a process which led it to initially mislabel the point at which pipeline EZ crossed Highway 183 in Austin, Texas, and therefore was not identified as an HCA.

In its Response, Phillips contended it did not violate § 195.452(f)(1) and that its process for identifying when a pipeline segment could affect an HCA was satisfactory. It presented evidence that its HCA identification process, addressed in *Section 2.4* of its *Integrity Management Plan (IMP 2.4)*, utilized not only National Pipeline Mapping Service and census data, but other sources and activities as well. Additionally, Respondent argued that the point at which pipeline EZ crossed Highway 183 in Austin, Texas, is observed by the company on a regular basis, that such constant monitoring played a large part in why this point was initially not classified as an HCA in 2006, and that it was later reclassified as an HCA in 2013 only after new census data became available.

I agree that Phillips' process for identifying HCAs was adequate and that its conclusions about this particular location were reasonable. Therefore, I order that this Item be withdrawn.

²² Section 49 C.F.R. § 195.450 states:

"High consequence area means:

- (1) A *commercially navigable waterway*, which means a waterway where a substantial likelihood of commercial navigation exists;
- (2) A *high population area*, which means an urbanized area, as defined and delineated by the Census Bureau, that contains 50,000 or more people and has a population density of at least 1,000 people per square mile;
- (3) An *other populated area*, which means a place, as defined and delineated by the Census Bureau, that contains a concentrated population, such as an incorporated or unincorporated city, town, village, or other designated residential or commercial area;
- (4) An *unusually sensitive area*, as defined in § 195.6".

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations.²³ 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 \$175,300 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$45,700 for Respondent's violation of 49 C.F.R. § 195.402(a), by failing to follow its own cathodic protection testing procedures. Respondent did not contest this allegation of violation, but sought a reduction in the proposed civil penalty. The company contends that the violation was an isolated example and not "indicative of a systemic problem."²⁴ In addition, the company indicates that adequate cathodic protection levels were present and there was no indication of any "elevated concern" regarding the integrity of the two tanks in question. Finally, the company argues that the penalty amount is excessive because the violation involved the failure of a Phillips employee to cover one of the company's own internal procedures, not an express pipeline regulation.²⁵

I have reviewed the evidence supporting the penalty considerations and find the proposed penalty to be reasonable and the penalty assessment factors properly applied. As for the nature of the violation, PHMSA took into account that the violation involved the failure to follow the company's own procedures and not simply a records violation and adjusted the penalty accordingly. As for gravity, PHMSA recognized that the tanks had adequate corrosion protection readings and that the violation had only a minimal impact on safety; on the other hand, there were multiple instances of violation and not just a single occurrence. Even though there was a minimal impact on safety, the failure of Phillips to conduct proper inspections could have easily jeopardized safety and resulted in a release and significant damage to life, property, or the environment.²⁶

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$45,700 for violating of 49 C.F.R. § 195.402(a).

²³ Effective January 3, 2012, the maximum administrative civil penalties for violations of the federal pipeline safety regulations were doubled to \$200,000 per violation per day of violation with a maximum of \$2,000,000 for a related series of violations (The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (Pub. L. 112-90)). Because the violations in this case occurred prior to the increase, the higher maximums do not apply.

²⁴ Response, at 2 – 3.

²⁵ *Id.*

²⁶ Violation Report, at 11 – 17.

Item 3: The Notice proposed a civil penalty of \$86,400 for Respondent's violation of 49 C.F.R. §§ 195.505(a-b), for failing to ensure through evaluation that employees were qualified to perform covered tasks on 29 separate occasions.

Respondent did not contest the violation, but requested a reduction in the proposed civil penalty, based largely on the various measures the company has taken subsequent to the inspection to ensure compliance. Phillips contends it has spent more than the proposed civil penalty of \$86,400 by taking steps to limit supervisor turnover, as well as to ensure better monitoring of employee qualifications.

I have reviewed the evidence in the record and find that the penalty for this Item was fairly and properly calculated. While Phillips is to be commended for the post-inspection actions it has taken to improve compliance, such actions are ones that any prudent operator would take in response to a violation. It is critical that an operator ensure all of its employees are properly qualified to perform safety-related tasks; the safety of the facility, as well as the environment surrounding it, depend upon it.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$86,400 for violating of 49 C.F.R. §§ 195.505(a-b).

Item 5: The Notice proposed a civil penalty of \$43,200 for Respondent's violation of 49 C.F.R. § 195.452(h)(2) for failing to obtain sufficient information within 180 days of an integrity assessment to enable the company to determine that a condition presents a potential threat to the integrity of the pipeline. As discussed above, I found that it was not impracticable for Phillips to have obtained sufficient information within such time period to make a determination about conditions that potentially threatened the integrity of the pipeline.

Respondent objected to the amount of the proposed penalty and requested its reduction or elimination. Phillips asserts that the penalty is excessive because a review of company records dating back to 2009 reveals this to be the only instance where it exceeded the 180-day deadline. Phillips also contends that it has taken steps since the inspection to ensure future compliance with § 195.452(h)(2).

I have reviewed the evidence in the record and find the assessment factors relating to "nature, circumstances and gravity" were reasonably applied in this case. As noted earlier, Phillips is to be commended for taking post-inspection actions to improve compliance, but such actions are ones that any prudent operator would take in response to a violation. The company also notes that this was the only violation of the 180-day deadline committed by Phillips since 2009. While this may be true, the gravity of this violation is increased because it could affect an HCA and was discovered not by the operator but by PHMSA. It is fortunate that the company's failure to discover several anomalies requiring prompt repair did not, in this instance, compromise safety or lead to a release that could have caused significant environmental damage. It is critical that pipeline integrity assessments be completed and acted upon at the earliest possible opportunity, not months later.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$43,200 for violating of 49 C.F.R. § 195.452(h)(2).

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 **\$175,300**.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 4, 5, 6, and 7 in the Notice for violations of 49 C.F.R. §§ 195.432(b), 195.452(h)(2), 195.452(b)(5), and 195.452(f)(1), respectively. Item Seven has been withdrawn, and therefore Phillips is not ordered to take steps to ensure compliance with § 195.452(f)(1).

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas 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 4**), Respondent must develop procedures that clearly identify when a corrosion rate of zero can be assumed. Phillips must also develop a procedure that clearly identifies if historic corrosion has occurred, and establish an appropriate corrosion rate from the measured data in accordance with API 653. After developing procedures, Phillips must re-evaluate its tank-inspection intervals against the revised procedure to ensure that the internal inspection intervals are calculated in accordance with API 653. Lastly, Phillips must ensure that inspections occur prior to reaching the minimum plate thickness necessary to ensure tank plate integrity.
2. With respect to the violation of § 195.452(h)(2) (**Item 5**), Respondent must amend its *IEP 1.03 – Reporting Requirements for Pipeline In – Line Inspection Procedure* to be consistent with the regulatory requirement of § 195.452(h)(2).
3. With respect to the violation of § 195.452(b)(5) (**Item 6**), Respondent must amend *Section 5.6.3* of its *Integrity Management Plan* and remove references to deleted procedures.
4. Respondent must provide PHMSA with documentation that verifies completion of numbers 1 and 2 above within 45 days following the receipt of the Final Order.
5. It is requested (not mandated) that Phillips Pipeline LLC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R.M. Seeley, 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 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 ITEMS

With respect to Items 1, 8, and 9, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.402(a) **(Item 1)** — Respondent's alleged failure to follow its atmospheric storage tank level alarm procedure, as set forth in its written operations manual;

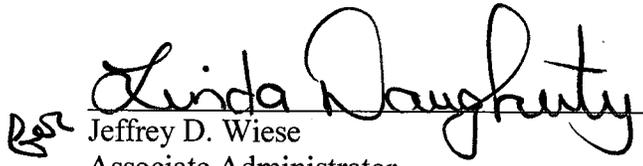
49 C.F.R. § 195.402(a) **(Item 8)** — Respondent's alleged failure to follow its welding procedures and welder qualification requirements, as set forth in its written operations manual; and

49 C.F.R. § 195.452(b) **(Item 9)** — Respondent's alleged failure to follow its procedures for the evaluation or repair of external or internal pipeline defects and anomalies, as set forth in its written integrity management program.

Respondent presented information in its Response showing that it had taken certain actions to address the cited items. If OPS finds a violation of any of these provisions in a subsequent inspection, Phillips may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, District of Columbia, 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed.

Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.


Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

SEP 11 2015
Date Issued