



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 S. Gessner, Suite 630
Houston, TX 77074

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 13, 2017

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

CPF 4-2017-5003

Dear Mr. Denton:

On October 31, 2016 through November 2, 2016, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected your Beaumont Terminal facility in Nederland, Texas.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The item inspected and the probable violation is:

1. § 195.432 Inspection of in-service breakout tanks

- (b) Each operator must 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). 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.

On three occasions Phillips 66 Pipeline, LLC (Phillips 66) failed to conduct internal inspections of their in-service breakout tanks at their required inspection dates in accordance with requirements of API Standard 653 section 6.4. Three tanks (designated by Phillips 66 as 122, 126 and 129) had properly established the following deadlines for internal inspection under section 6.4.2:

Tank 122: October 10, 2011

Tank 126: January 3, 2013

Tank 129: April 7, 2012

At the time of the PHMSA OPS inspection, the required out-of-service inspections had not been completed.

Tank 122 was constructed in 1975 with the most recent internal inspection conducted September 11-16, 2001. Due to the installation of new lining, the previous operator established a re-inspection date of October 10, 2011 under API Standard 653 section 6.4.2.2. Tank 122 had not been re-inspected to this interval when the previous operator completed a Risk Based Inspection on August 31, 2013 to re-establish the interval under API Standard 653 Section 6.4.3. This analysis was completed 692 days after the internal inspection was due.

Tank 126 was constructed in 1979 with the most recent internal inspection report conducted January 3, 2003. Due to the unknown effectiveness of cathodic protection, the previous operator established a re-inspection date of January 3, 2013 under API Standard 653 Section 6.4.2.2. Tank 126 had not been re-inspected to this interval when the previous operator completed a Risk Based Inspection on August 31, 2013 to re-establish the interval under API Standard 652 Section 6.4.3. This analysis was completed 241 days after the internal inspection was due.

Tank 129 was constructed in 2002 and the previous operator set the first internal inspection date to April 7, 2012. On June 20, 2006 a tank bottom scan was completed, and inspection date was extended to June 20, 2016 based on results. Upon purchasing the asset, Phillips 66 personnel evaluated the interval and determined the inspection date to be April 7, 2012.

Phillips 66 provided most recent internal inspection reports and documentation setting the re-inspection deadlines to the dates listed above.

During the OPS inspection, operator personnel provided a timeline stating planned out-of-service inspection dates in late 2016 (Tanks 122 and 129), and 2017 (Tank 126).

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$205,638 per violation per day the violation persists up to a maximum of \$2,056,380 for a related series of violations. For violations occurring between January 4, 2012 to August 1, 2016, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$62,200.

Proposed Compliance Order

With respect to item 1 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Phillips 66 Pipeline LLC. 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. All material you submit in response to this enforcement action may be 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 4-2017-5003** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

A handwritten signature in black ink, appearing to read "R. M. Seeley". The signature is written in a cursive style with a large initial "R" and a stylized "S".

R. M. Seeley
Director, Southwest 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 Phillips 66 Pipeline LLC (Phillips 66) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Phillips 66 with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to Phillips 66 failure to complete internal inspections for Tanks 122, 126 and 129, Phillips 66 must perform inspections in accordance with API Standard 653 Section 6.4 and provide documentation to indicate that Tanks 122, 126 and 129 have been inspected.
2. Provide PHMSA with documentation that verifies completion of number 1 within 90 days following the receipt of the final order.
3. 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 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.