

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 20, 2018

Mark Cunningham
Senior Vice President, Engineering & Technical Services
Holly Energy Partners-Operating, L.P.
2828 N. Harwood, Suite 1300
Dallas, Texas 75201

CPF 4-2018-5005

Dear Mr. Cunningham:

From November 28, 2016 through May 19, 2017, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Holly Energy Partners-Operating, L.P. (HEP) facilities in New Mexico, Oklahoma, and 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 (CFR). The items inspected and the probable violations are:

1. §195.403 Emergency Response Training.

(b) At the intervals not exceeding 15 months, but at least once each calendar year, each operator shall:

- (1) Review with personnel their performance in meeting the objectives of the emergency response training program set forth in paragraph (a) of this section; and**
- (2) Make appropriate changes to the emergency response training program as necessary to ensure that it is effective.**

HEP failed to review with personnel their performance in meeting the objectives of the emergency response training program and make appropriate changes to the emergency response training program as necessary to ensure that it is effective.

During the inspection, PHMSA requested HEP to provide documentation for the review of emergency personnel performance for calendar years 2014, 2015, and 2016. HEP could not provide the requested documentation.

Further, HEP did not comply with its own O&M manual, which requires yearly evaluations of emergency personnel performance pursuant to §195.403. The HEP O&M Procedure, Section 4.4 Emergency Response Training states:

4.4.1 “Yearly evaluations, not to exceed 15 months, are made to the training program to ensure that personnel and supervisors maintain a thorough knowledge of any updates or revisions in operations. Training records are maintained at the Artesia Operations office.”

4.4.3 “The company will, at intervals not exceeding 15 months, but at least once per year calendar year, conduct a meeting to review personnel performance in the meeting the objectives of the annual deployment drills, table top drills and the IBT training.”

2. § 195.446 Control Room Management.

(h) Training. Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. An operator’s program must provide for training each controller to carry out the roles and responsibilities defined by the operator. In addition, the training program must include the following elements:

- (1) Responding to abnormal operating conditions likely to occur simultaneously or in sequence;**

HEP failed to provide controller training for responding to abnormal operating conditions likely to occur simultaneous or in sequence for calendar years 2014, 2015, and 2016 in accordance with their procedure 9.1 Rule Requirements and § 195.446.

HEP’s Control Room Management Plan States:

9.1 Rule Requirements

In accordance with the Rule, HEP must establish a training program that provides each Controller with the knowledge to carry out the roles and responsibilities defined

by the Operator, to include the following:

- Responding to abnormal operating conditions likely to occur simultaneously or in sequence;
- Using a tabletop method for training Controllers to recognize AOC's;
- Communication responsibilities under the Operators emergency response procedures;
- Working knowledge of the pipeline system, especially during the development of AOC's;
- Providing the opportunity for Controller to review procedures for infrequently used operating setups in advance of their application;
- Review of the program content for potential improvements at least once each calendar year but not to exceed 15 months.

HEP did not perform the required training. HEP could not provide any records regarding controller training except the list of OQ tasks for the controllers.

3. §195.452 Pipeline integrity management in high consequence areas.

(j) What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(1) General. After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.

(2) Evaluation. An operator must conduct a periodic evaluation as frequently as needed to assure pipeline integrity. An operator must base the frequency of evaluation on risk factors specific to its pipeline, including the factors specified in paragraph (e) of this section. The evaluation must consider the results of the baseline and periodic integrity assessments, information analysis (paragraph (g) of this section), and decisions about remediation, and preventive and mitigative actions (paragraphs (h) and (i) of this section).

HEP failed to document the process for evaluating pipeline integrity to ensure all of the required risk factors are accounted for and to ensure the effectiveness of the continual evaluation process as required by §195.452 (j)(2) and HEP's Integrity Management Program Manual. HEP's IMP Manual states:

Section 3.10.1-Post Integrity Assessment Evaluation:

Following identification, evaluation and remediation of any conditions on covered pipeline segments, Company will integrate actual pipe condition data and determine the need for additional P&M Measures. The Company will consider the entire pipeline system's information when determining risks associated with pipeline operation in covered pipeline segments, such as results of previous:

- *Reconstruction;*
- *Integrity assessments;*
- *Direct examinations;*
- *Remediation actions;*
- *ROW condition surveys;*
- *Risk assessments; and,*
- *P&M Measures”.*

PHMSA requested HEP to provide the records of the continual evaluation of their pipeline’s integrity for calendar years 2014, 2015, and 2016. Upon review, PHMSA noted the content of the spreadsheet reflected the pipe segments, pipeline assessment methods, last and next inspection dates for ILI, identified anomalies and their prioritized repair schedule, etc. These items are only a part of the requirements of the continual process of evaluation and assessment to maintain a pipeline's integrity. HEP’s continual evaluation spreadsheet, however, did not include consideration of other factors as required including the results of previous integrity assessment risk results and/or risk ranking; review new data; identified integrity threats specific to that line segment, and any new information which may suggest additional actions are warranted must be included in the continual evaluation process in order to measure the overall effectiveness of the company’s integrity management program.

4. §195.573 What must I do to monitor external corrosion control:

(a) *Protected pipelines.* You must do the following to determine whether cathodic protection required by this subpart complies with § [195.571](#):

(2) Identify not more than 2 years after cathodic protection is installed, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 (incorporated by reference, see § [195.3](#)).

HEP failed to identify the circumstances in which a close interval survey (CIS) or comparable technology is necessary to evaluate the adequacy of cathodic protection at the pipe to soil interface within two years of the installation of their pipeline.

HEP O&M Procedure, 195.573 (a) (2) CIS or other technology states:

If after cathodic protection is installed on a new or existing pipeline system, the Corrosion Supervisor will identify, within two years following installation, the circumstances in which a close-interval survey or comparable technology is practicable and necessary.

The Corrosion Supervisor will consider the need for a close interval survey or other comparable technology by evaluating the following:

- *Baseline test point survey*
- *Native Pipe to Soil potentials (if obtained)*
- *Soil Conditions*

- *Foreign crossings, specifically those with cathodic protection*
- *Close proximity Parallel pipelines and or High Voltage Power lines*

The Corrosion Supervisor will submit findings to the Integrity Specialist for integration in the Risk Assessment, Integrity Analysis and Assessment Plans for each pipeline.

HEP has approximately 195 miles of HCA out of 755 miles of pipeline. HEP did not follow its O&M Procedure mentioned above. The Corrosion Supervisor failed to provide Close Interval Survey (CIS) data along with the evaluation reports/findings to the integrity specialist for integration in the risk assessment, integrity analysis and assessment plans for each pipeline.

HEP could not show it identified the circumstances in which a CIS or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE SP 0169 not more than 2 years after cathodic protection was installed, as required by 195.573.

5. §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 RP 651 (incorporated by reference, see § 195.3). However, this inspection is not required if you note in the corrosion control procedures established under §195.402(c)(3) why complying with all or certain operation and maintenance provisions of API RP 651 is not necessary for the safety of the tank.

HEP did not inspect each cathodic protection system used to control corrosion on the bottom of its aboveground breakout tanks to ensure that operation and maintenance of the systems are in accordance with API RP 651. HEP failed to consider IR drop during the annual tank to soil potential surveys as required by §195.573(d) for all of the breakout tanks within the terminal,. HEP records indicated that even though the “ON” readings satisfy the -850 mV criteria, they failed to establish a valid interpretation of the voltage measurements without consideration of IR drop.

PHMSA reviewed records for 2014, 2015, and 2016 and HEP could not provide documentation to demonstrate the IR drop considerations of all the breakout tanks to ensure that operation and maintenance of the system is in accordance with API Recommended Practice 651.

6. §195.577 What must I do to alleviate interference currents

(a) For pipelines exposed to stray currents, you must have a program to identify, test for, and minimize the detrimental effects of such currents.

HEP failed to identify, test and minimize the detrimental effects of the interference current in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist, as required by § 195.577.

During the records review of annual cathodic protection surveys, PHMSA noted that the HEP documents the HVAC interference current readings along with the annual pipe to soil potential readings. When asked about the threshold limit of interference for current readings that trigger further investigation, HEP did not know if the cathodic protection measurements encountered interference currents or not. HEP simply answered that the AC readings are used for their records only. This was confirmed during the PHMSA field inspection at ORLA pump station.

PHMSA witnessed pipe soil potential measurements performed as 3.15Vdc. The technician's response to the high CP reading was to point out the approximate 2 miles of overhead AC transmission line along the pipeline ROW. In addition, Kinder Morgan and Enterprise also share the same ROW which may also contribute to more interference activities. HEP did not provide evidence of any program or measure that mitigates the detrimental effects of the stray currents detected.

7. §195.583 What must I do to monitor atmospheric corrosion control?

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by § [195.581](#).

HEP failed to monitor and protect against the atmospheric corrosion of the station piping and the breakout tank terminal. During the field inspection of the Wichita Falls Tank Terminal, PHMSA identified severe atmospheric corrosion in the tank farm and pump station piping.

In the Wichita Falls Tank Terminal, PHMSA randomly conducted the visual inspection around the tanks. PHMSA identified severe atmospheric corrosion issues in the tank shell, tank bottom and the dike areas. PHMSA observed pitted corrosion at lower part of the shell, paint peeled off, tank bottom/foundation completely covered by soil, vegetation round the tank bottom/foundation, chime completely/partially disappeared and/or corroded, irregular grading of the dike area.

HEP did not identify atmospheric corrosion during inspections and did not protect against atmospheric corrosion as required by § 195.583 and § 195.581.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$209,002 per violation per day the violation persists up to a maximum of \$2,090,022 for a related series of violations. For violations occurring prior to November 2, 2015, 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. 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 \$227,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$67,000
2	\$67,000
4	\$55,200
6	\$38,000

Warning Items

With respect to Items # 3 and # 5, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to Item# 7 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Holly Energy Partners-Operating, L.P. 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2018-5005** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
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 Holly Energy Partners-Operating, L.P. a Compliance Order incorporating the following remedial requirements to ensure the compliance of Holly Energy Partners-Operating, L.P. with the pipeline safety regulations:

1. In regard to Item Number # 7 of the Notice pertaining to HEP failing to monitor and protect the pipeline from atmospheric corrosion at the Wichita Falls Tank Terminal, HEP must conduct inspections to comply with the code requirements of §195.583 in accordance with their procedures, and must provide protection against the corrosion as required by § 195.581 to include external corrosion on tanks, tank bottoms/concrete foundations.
2. HEP must complete the above item within 180 days following receipt of the Final Order and submit to PHMSA Southwest Region office.
3. It is requested (not mandated) that Holly Energy Partners-Operating L.P. maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary McDaniel, 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.