

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

October 4, 2018

Ryan Coffey  
Executive Vice President of Operations  
Sunoco Marketing & Terminals, L.P.  
800 East Sonterra Blvd.  
San Antonio, Texas 78258

**CPF 4-2018-5021S**

Dear Mr. Coffey:

Enclosed is a Notice of Proposed Safety Order (Notice) issued in the above-referenced case. The Notice proposes that you take certain measures with respect to your Gulf Coast Terminal to ensure pipeline safety. Your options for responding are set forth in the Notice. Your receipt of the Notice constitutes service of that document under 49 C.F.R. § 190.5.

We look forward to a successful resolution to ensure pipeline safety. Please direct any questions on this matter to me at 713-272-2859.

Sincerely,

Mary L. McDaniel, P.E.  
Director, Southwest Region  
Pipeline and Hazardous Materials Safety Administration

Enclosure: Notice of Proposed Safety Order

cc: Mr. Alan K. Mayberry, Associate Administrator for Pipeline Safety, OPS  
Ms. Linda Daugherty, Deputy Associate Administrator for Field Operations, OPS

**DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
SOUTHWEST REGION  
HOUSTON, TEXAS 77074**

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<b>In the Matter of</b>	)	
	)	
<b>Sunoco Partners Marketing &amp; Terminals, L.P.</b>	)	<b>CPF No. 4-2018-5021S</b>
	)	
<b>Respondent.</b>	)	
	)	

**NOTICE OF PROPOSED SAFETY ORDER**

**Background and Purpose**

Pursuant to Chapter 601 of title 49, United States Code, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has initiated an investigation of the safe operation of the Sunoco Partners Marketing & Terminals, L.P.’s (Sunoco) Gulf Coast Terminal in Nederland, Texas.

As a result of the investigation, it appears that conditions exist on your pipeline facilities that pose a pipeline integrity risk to public safety, property or the environment. Pursuant to 49 U.S.C. § 60117(l), PHMSA issues this Notice of Proposed Safety Order, notifying you of the preliminary findings of the investigation, and proposing that you take measures to ensure that the public, property, and the environment are protected from the potential risk.

For purposes of this Notice, the term “*Affected Breakout Tank Facility*” means the 71 crude oil storage tanks and associated piping identified as PHMSA regulated within the Gulf Coast Terminal.

**Preliminary Findings**

- The Gulf Coast Terminal (Terminal), is entirely located in Jefferson County, Texas at 2200 North Highway 347, Nederland, Texas 77627. The facility has a total of 130<sup>1</sup> storage tanks and has associated facility piping of varying outside diameter. The approximate storage capacity within the terminal is 28 million barrels of crude oil and one million barrels of natural gas liquids. The Terminal can receive product via ship or pipeline, and deliver

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<sup>1</sup> SLP Response to SW Region RFI 3/17/2017

product through barges, third-party pipelines, and ships. The Terminal has its own control center.<sup>2</sup> The Terminal serves as a hub for crude oil transportation in the Gulf Coast markets.

- The Terminal stores and transports crude oil of various quality, natural gas liquids, and other refined products. The regulated storage tanks exclusively transport crude oil.
- The Terminal is located on the Gulf Coast, a subtropical climate, subject to tropical storms and hurricanes.
- The Terminal is intersected by Drinking Water High Consequence Areas (HCA), and bounded by High Populated Areas (HCA).
- The Terminal is bounded by the City of Nederland, Texas to the South, and the Neches River to the North. The surrounding population density is 959/sq. mi.<sup>3</sup>
- The conditions described above are not restricted to a certain area of the Terminal, but apply to all pipeline components within the facility that are determined to be in transportation.
- There is no record of a PHMSA OPS inspection on the Affected Breakout Tank Facility operated by Sunoco prior to an August 12, 2016 event.
- During the review of the accident that occurred at the Terminal on August 12, 2016, the Southwest Region discovered that Sunoco was operating tanks and piping that were not properly identified as jurisdictional under Part 195. Sunoco provided documents reviewed by OPS staff that indicated portions of the Terminal considered by Sunoco to be non-jurisdictional were in fact subject to pipeline safety regulations. The Region prepared an enforcement action against Sunoco Pipeline, L.P. (CPF No. 4-2017-5011)<sup>4</sup>.
- Subsequent to this event, Sunoco communicated their uncertainty regarding the application of Part 195 within the Terminal to PHMSA, using a previous assessment concluding only five storage tanks were subject to PHMSA safety regulations.<sup>5</sup>
- After an investigation and discussion with PHMSA, Sunoco has identified 71 storage tanks and associated piping (Affected Breakout Tank Facility) within the Terminal that are subject to PHMSA regulation pursuant to 49 C.F.R. Part 195.

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<sup>2</sup> Sunoco Logistics Partners L.P Form 10-K 2016.

<sup>3</sup> <https://echo.epa.gov/detailed-facility-report?fid=110008146158>

<sup>4</sup> 4-2017-5011, Final Order issued June 15, 2018 found that Sunoco violated 49 CFR 195.54(a) and 195.52(a) following a failure within the Terminal August 12, 2016. The accident resulted in a release of approximately 4.2 gallons of crude and four injuries to contract workers. The Compliance Order directed Sunoco to submit a PHMSA Form PHMSA F 7000.1 for the accident, investigative reports and corrective actions identified as a result of the investigation.

<sup>5</sup> Sunoco Partners Marketing & Terminals Letter to OPS Counsel (August 23, 2016).

- Sunoco provided information to the Region indicating a significant portion of regulated piping within the Terminal has not been subjected to a pressure test. In the absence of historical records, the maximum operating pressure for PHMSA regulated pipeline components can only be properly established in accordance with § 195.406 through the application of a pressure test.
- The majority of the storage tanks were constructed to the API Standard 650, or its predecessor. Station piping is located both underground and aboveground. The Terminal has expanded in capacity throughout its history with 39 of the 71 storage tanks constructed after January 1, 2000.
- As Sunoco had not reported failures subject to § 195.50 prior to September 2017, relevant pipeline accident history is limited to releases reported by other regulated second and third-party pipeline operators whose facilities originate or terminate within the Terminal. Since 2002, at least seven accidents or incidents have been reported to PHMSA, occurring on regulated pipeline facilities operated within the terminal since 2002, but not necessarily on assets operated by Sunoco. Reportedly, a release occurred in January 2016 due to improper pipe support<sup>6</sup>. The August 2016 accident within the facility involved the release of crude oil and injury to four contract workers.
- The continued operation of pipelines and storage tanks in transportation without the historical application of pipeline safety regulations presents an elevated risk of harmful consequence to the safety of personnel, potential impact to the surrounding environment and property. An assessment of Terminal's compliance with applicable regulations is necessary to conclude that the likelihood of the pipeline and storage tanks serviceability is at risk.

### **Proposed Issuance of Safety Order**

Section 60117(l) of Title 49, United States Code, provides for the issuance of a safety order, after reasonable notice and the opportunity for a hearing, requiring corrective measures, which may include physical inspection, testing, repair, or other action, as appropriate. The basis for making the determination that a pipeline facility has a condition or conditions that pose a pipeline integrity risk to public safety, property, or the environment is set forth both in the above-referenced statute and 49 C.F.R. § 190.239, a copy of which is enclosed.

After evaluating the foregoing preliminary findings of fact and considering the age of the pipe involved, the manufacturer, the hazardous nature of the product transported and the pressure required for transporting such product, the characteristics of the geographical areas where the pipeline facility is located, and the likelihood that the conditions could worsen or develop on other areas of the pipeline and potentially impact its serviceability, it appears that the continued operation of the affected pipeline without corrective measures would pose a pipeline integrity risk to public safety, property, or the environment.

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<sup>6</sup> Executive Summary – Enforcement Matter – Case No. 52004

Accordingly, PHMSA issues this Notice of Proposed Safety Order to notify Sunoco of the proposed issuance of a safety order and to propose that Sunoco take measures specified herein to address the potential risk.

### **Proposed Corrective Measures**

Pursuant to 49 U.S.C. § 60117(l) and 49 C.F.R. § 190.239, PHMSA proposes to issue to Sunoco Partners Marketing & Terminals, L.P. a safety order incorporating the following remedial requirements with respect to the Affected Breakout Tank Facility:

1. Within 90 days after a safety order is issued, develop and submit to the Director for approval a written remedial work plan that includes corrective measures. The work plan (Plan) must include provisions to:
  - a. Provide a complete inventory of all tanks and piping subject to regulatory oversight under 49 CFR Part 195.
  - b. Establish or confirm the maximum operating pressure for regulated piping and pipeline components in accordance with § 195.406. The Plan must:
    - i. Identify all piping segments and the methods used to safely validate the MOP.
    - ii. Provide for continued integrity of piping as the schedule to establish an MOP progresses.
  - c. Install overpressure safety equipment, as appropriate, on all regulated pipeline components.
  - d. Complete inspections on tanks in accordance with § 195.432. The Plan must include a risk based prioritization schedule to complete the above inspections, and complete mandatory repairs prior to returning the tank to service.
  - e. Install cathodic protection on designated underground piping and components as appropriate, in accordance with § 195.563.
  - f. Incorporate the Nederland Terminal, as appropriate, into an Integrity Management Plan per § 195.452 by September 6, 2018.
2. The Plan must include proposed timeline for completion of the actions required by paragraphs (1) of this Item.
3. Submit to the Director, all written procedures that will be used to complete the requirements of the Safety Order.
4. Revise the Plan as necessary to incorporate new information obtained during the evaluations and associated remedial activities. Submit any such plan revisions to the

Director for prior approval. The Director may approve plan elements incrementally. The remedial work plan shall become incorporated into the safety order.

5. Implement the work plan as it is approved by the Director, including any revisions to the plan. Results of actions taken in accordance with the approved plan must be available for review by PHMSA or its representative.
6. Submit quarterly reports to the Director that: (1) include available data and results of the testing and evaluations required by the safety order; and (2) describe the progress of the repairs and other remedial actions being undertaken.
7. A final summary report of work performed on the above items must be submitted to the Director within 30 days of the completion of the last action performed by Sunoco that is set forth in this Safety Order.
8. The Director may grant an extension of time for compliance with any of the terms of the safety order upon a written request timely submitted demonstrating good cause for an extension.
9. Sunoco may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator shall be final.
10. It is requested (not mandated) that Sunoco Partners Marketing & Terminals, L.P. maintain documentation of the safety improvement costs associated with fulfilling this Safety 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 actions proposed by this Notice of Proposed Safety Order are in addition to and do not waive any requirements that apply to Sunoco's pipeline system under 49 C.F.R. Parts 190 through 199, under any other order issued to Sunoco under authority of 49 U.S.C. § 60101 et seq., or under any other provision of Federal or state law.

After receiving and analyzing additional data in the course of this proceeding and implementation of the work plan, PHMSA may identify other safety measures that need to be taken. In that event, Sunoco will be notified of any proposed additional measures and, if necessary, amendments to the work plan or safety order.

### **Response to this Notice**

In accordance with § 190.239, you have 30 days following receipt of this Notice to submit a written response to the official who issued the Notice. If you do not respond within 30 days, this constitutes a waiver of your right to contest 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 Safety Order. In your response, you may notify that official that you intend to comply with the terms of the Notice as proposed, or you may request that an informal consultation be scheduled (you will also have an opportunity to request an administrative hearing before a safety order is issued). Informal consultation provides you with the opportunity to explain the circumstances associated with the risk condition(s) alleged in the notice and, as appropriate, to present a proposal for a work plan or other remedial measures, without prejudice to your position in any subsequent hearing.

If you and PHMSA agree within 30 days of informal consultation on a plan and schedule for you to address each identified risk condition, the parties may enter into a written consent agreement, in which case PHMSA would then issue an administrative Consent Order incorporating the terms of the agreement. If a consent agreement is not reached, or if you have elected not to request informal consultation, you may request an administrative hearing in writing within 30 days following receipt of the Notice or within 10 days following the conclusion of an informal consultation that did not result in a consent agreement, as applicable. Following a hearing, if the Associate Administrator finds the facility to have a condition that poses a pipeline integrity risk to the public, property, or the environment in accordance with § 190.239, the Associate Administrator may issue a final Safety Order.

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).

In your correspondence on this matter, please refer to CPF **4-2018-5021S** and for each document you submit, please provide a copy in electronic format whenever possible.

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Mary L. McDaniel, P.E.  
Director, Southwest Region  
Pipeline and Hazardous Materials Safety Administration

October 4, 2018

Date issued