

## **WARNING LETTER**

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 9, 2019

Mr. Todd Denton  
President and Chief Executive Officer  
Phillips 66 Pipeline, LLC  
2331 Citywest Blvd.  
Houston, TX, 77042

**CPF 5-2019-5013W**

Dear Mr. Denton:

From March 6, April 22 through 25, July 29 through August 5 and September 4 through 5, 2019, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), inspected your Borger to Denver HL line located in Texas, Oklahoma, and Colorado.

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 item inspected and the probable violation is:

1. § 194.107 General response plan requirements.

(a) ...

(c) Each response plan must include:

(1) A core plan consisting of—

(ix) **Drill program—an operator will satisfy the requirement for a drill program by following the National Preparedness for Response Exercise Program (PREP) guidelines. An operator choosing not to follow PREP guidelines must have a drill program that is equivalent to PREP. The operator must describe the drill program in the response plan and OPS will determine if the program is equivalent to PREP.**

On October 31, 2017, Phillips 66 performed an Equipment Deployment Exercise in La Junta, Colorado. Phillips 66 deployed company-owned spill collection booms into the Arkansas River and self-certified that they followed National PREP guidelines. Upon inspection, it was determined that Phillips 66 did not follow National PREP guidelines for proper documentation, for self-certification. The Objectives Met and Lessons Learned were not addressed as required and a description of the drill was lacking in detail.

As the *National Preparedness for Response Exercise Program (PREP) Guidelines* state: “Self-certification is where the plan holder declares that he or she has met the following standards: (1) completion of the exercise; (2) conducting of the exercise in accordance with the PREP guidelines, meeting all objectives listed; and (3) evaluation of the exercise using a mechanism that appraises the effectiveness of the response or contingency plan.” (1-8).

“Proper documentation for self-certification should include, as a minimum, the following information:

- The type of exercise.
- Date and time of exercise.
- A description of the exercise.
- The objectives met in the exercise.
- The components of the response plan exercised.
- Lessons learned.

This documentation must be in writing and signed by an individual empowered by the plan holder organization.” (2-23).

Furthermore, as stated on 5-6 under the Certification section “Self-certification as indicated in the response plan. Each plan should have a written description of the company’s certification process.” These requirements were not met, so Phillip 66 should not be able to receive the Credit Section as stated: “Plan holder should take credit for this exercise when conducted in conjunction with other exercises as long as all objectives are met, the exercise is evaluated, and a proper record is generated. Credit should be taken for an actual spill response when these objectives are met, the response is evaluated and a proper record is generated”.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. 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. 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 correct the items identified in this letter. Failure to do so will result in Phillips 66 Pipeline, LLC being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 5-2019-5013W**. 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).

Sincerely,

Dustin Hubbard  
Director, Western Region  
Pipeline and Hazardous Materials Safety Administration

cc: PHP-60 Compliance Registry  
PHP-500 C. Cordova, J. Coleman, T. Jez (#163243)