



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 4, 2014

Mr. Todd Denton
President
Phillips 66 Pipeline, LLC
3010 Briarpark Drive
Houston, TX 77042

CPF 4-2014-5001

Dear Mr. Denton:

On multiple occasions from August 20 through December 16, 2013, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code conducted an investigation of the accident that occurred on the Wood River 12-inch Products Line (WR-01) Ponca City to Glenpool Segment on August 19, 2013.

As a result of the investigation, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. §195.52 Immediate notice of certain accidents.

(b) Information required. Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202-267-2675) or electronically at <http://www.nrc.uscg.mil> and must include the following information:

(6) Initial estimate of amount of product released in accordance with paragraph (c) of this section.

(c) Calculation. A pipeline operator must have a written procedure to calculate and provide a reasonable initial estimate of the amount of released product.

The operator failed to provide an initial estimate of the amount of product released when making a telephonic notification of an accident. At 12:47 p.m. (CST) on August 19, 2013, Phillips 66 reported a spill to the National Response Center (NRC), Report No. 1057576, on their Wood River 12-inch Products Line (WR-01) Ponca City to Glenpool Segment near Cleveland, Oklahoma. Phillips 66 reported "0" as the amount of product released at the time of the notification.

Phillips 66 updated their NRC report on August 20, 2013, at 3:47 p.m. (Report No. 1057689) after conversations with PHMSA concerning NRC requirements. At that time, Phillips 66 estimated the amount of product released as 500 bbls.

2. §195.52 Immediate notice of certain accidents.

(b) Information required. Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202-267-2675) or electronically at <http://www.nrc.uscg.mil> and must include the following information:

(7) All other significant facts known by the operator that are relevant to the cause of the failure or extent of the damages.

The operator failed to provide all significant and relevant facts when making the telephonic notification of the accident that occurred on their Wood River 12-inch Products Line (WR-01) Ponca City to Glenpool Segment near Cleveland, Oklahoma on August 19, 2013.

Phillips 66 reported NRC Report No. 1057576 on August 19, 2013 at 12:47 p.m. (CST) and did not provide all of the significant and relevant details known by the operator at the time of the accident. The Phillips 66 employee reporting the incident stated that the pipeline "developed" a leak. The timeline later submitted by Phillips 66, indicates supervisory personnel, field notifications and Duty Officer calls were completed and an initial briefing call was completed by 12:30 p.m. (CST) on Monday, August 19, 2013. Phillips 66 personnel were aware at the time of the initial call that the line was struck by their contractor performing maintenance work but did not report those facts when the initial NRC report was made.

3. §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 not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that 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 operator failed to follow their procedures for uncovering their pipeline during maintenance activities. On August 19, 2013, Phillips 66 was performing maintenance activities on their pipeline that required the pipeline to be exposed. Phillips 66 did not follow their procedure P66PL-MPR-4010; Excavations.

Phillips 66 Pipeline LLC manual P66PL-MPR-4010; Excavations; Section 6.8.2.1. - states that "Extreme care shall be exercised in initially uncovering the pipeline. Mechanical equipment may be used while a

designated representative spotter utilizing a probe or alternative means is constantly monitoring the depth of digging.”

At the time of the accident, the pipeline was still in the process of being uncovered using mechanical equipment without a designated spotter monitoring the depth of digging.

4. §195.505 Qualification program

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(b) Ensure through evaluation that individuals performing covered tasks are qualified.

(c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

The operator failed to ensure that the person designated as the “Spotter” was qualified or that he was directed and observed by an individual that was qualified. On August 19, 2013, Phillips 66 was performing maintenance activities on their pipeline that required the pipeline to be exposed. This activity required a qualified person per covered task PR4010.2. The employee designated as the Spotter was not qualified to perform the task. While other individuals were on site and qualified per PR4010.2 they were neither directing nor observing the unqualified individual or performing the Spotter tasks themselves.

5. §195.404 Maps and Records

(b) Each operator shall maintain for at least 3 years daily operating records that indicate--

(2) Any emergency or abnormal operation to which § 195.402 apply.

The operator failed to provide records to demonstrate that a Hot Work Permit required by Phillips 66 HSE Hot Work Permit Policy, was obtained for the repair work performed on August 20, 2013, following the excavation damage. Phillips 66 procedure P66PL-MPR-4010 Excavations; Section 6-6.3.8 state that a Hot Work Permit should be obtained prior to beginning excavations and refer to the Phillips 66 – Health and Safety Hot Work Permit Policy (Rev. 3/2007-12-01). PHMSA requested the Hot Work Permits for the repair work performed on August 20, 2013. According to an email received from the compliance supervisor dated December 16, 2013, the permit for the requested day could not be located.

Proposed Civil Penalty

Under 49 United States Code, §60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$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 a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$364,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 1	\$ 30,200
Item 3	\$167,000
Item 4	\$167,000

Warning Items

With respect to Items 2 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 item(s). Failure to do so may result in additional enforcement action.

Proposed Compliance Order

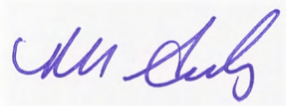
With respect to Item 1, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Phillips 66. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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 4-2014-5001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



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 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 telephonic notification of the initial estimate of the amount of product released:

Phillips 66 Pipeline LLC manual (P66PL-MR-2827) contains a procedure titled PHMSA Hazardous Liquid Pipeline Accident and Incident Reporting Guidelines Rev. 7, Section 5. Action Required, Section 5.2 Telephonic Notification (number 9). These procedures state *“Initial estimate of amount of product released (needs to be reported within 48 hours of discovery). If working the spill amount, tell the NRC that you will get back with them within 48 hours.”* This procedure includes a reporting time of 48 hours which is not reflected in the 49 CFR195.52 (b)(6). Phillips 66 shall revise these procedures to ensure that an initial estimate is reported to the National Response Center when a release occurs.

2. Phillips 66 shall provide the revised procedures within 30 days after receipt of a 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, 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.