

February 17, 2022

VIA ELECTRONIC MAIL TO: richard.voliva@hollyfrontier.com

Mr. Richard Voliva
President
Holly Energy Partners, LP
2828 North Harwood Street, Suite 1300
Dallas, Texas 75201

Re: CPF No. 4-2021-011 NOPV

Dear Mr. Voliva:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that need to be taken by Holly Energy Partners, LP, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Ms. Bridgette Taylor, Pipeline Regulatory Manager, Holly Energy Partners, LP,
bridgette.taylor@hollyenergy.com
Ms. Lori Coupland, Director, Compliance & EHS, Holly Energy Partners, LP,
lori.coupland@hollyenergy.com

CONFIRMATION OF RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of	)	
	)	
Holly Energy Partners, LP,	)	CPF No. 4-2021-011 NOPV
	)	
Respondent.	)	
	)	

FINAL ORDER

From March 9, 2020, through July 2, 2021, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Holly Energy Partners, LP (HEP or Respondent) in Utah, Texas, New Mexico, and Oklahoma. HEP provides petroleum product and crude oil transportation and, through its subsidiaries and joint ventures, owns and operates petroleum product and crude gathering pipelines, tankage and terminals in Texas, New Mexico, Washington, Idaho, Oklahoma, Utah, Nevada, Wyoming, and Kansas as well as refinery processing units in Kansas and Utah.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated November 2, 2021, a Notice of Probable Violation and Proposed Compliance Order (Notice). The Notice proposed finding that Respondent committed four violations of the pipeline safety regulations in 49 C.F.R. §§ 195.432(b) and 195.573(a)(2) and proposed certain measures to correct the alleged violations.

HEP responded to the Notice by letter dated December 14, 2021 (Response). HEP contested one of the allegations of violation and offered additional information in response to the Notice. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.
(a)

¹ Holly Energy Partners, LP website, *available at* <http://www.hollyenergy.com/about-us/corporate-structure/default.aspx> (last accessed February 2, 2022).

(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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653. Specifically, the Notice alleged that HEP failed to conduct routine in-service inspections of the physical integrity of its in-service Tank #1201A and Tank #1201B at its Navajo Refinery in accordance with section 6.3.1 of API Std 653. *API Std 653 Section 6.3.1 Routine In-Service Inspection* requires, among other things, that “[e]vidence of leaks; shell distortions; signs of settlement; corrosion; and condition of the foundation, paint coatings, insulation systems, and appurtenances should be documented for follow-up action by an authorized inspector.” During the inspection, the PHMSA inspector observed a cracked and eroded asphalt base around the tank foundation for both Tank #1201A and Tank #1201B. PHMSA reviewed HEP’s Monthly Inspection reports dated May 26, June 28, and July 20, 2021, for Tank #1201A and Tank #1201B, and none of the reports contained notes indicating cracked or eroded asphalt.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of its in-service tanks in accordance with API Std 653.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

(a)

(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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653. Specifically, the Notice alleged that HEP failed to conduct external inspections of the physical integrity of its in-service Tank #1201B at its Navajo Refinery in

accordance with sections 6.3.2 and 6.9 of API Std 653. *API Std 653 Section 6.3.2 External Inspection* requires visual external inspections at calculated intervals not to exceed five years. *API Std 653 Section 6.9.2 Report Contents* requires the inspection reports to include certain information.

The Notice alleged that HEP's Storage Tank In-Service External Visual Inspection Report for Tank #1201B (dated June 6, 2017) (Inspection Report) did not include information regarding the next inspection date or the inspection interval, any recommendations, the name of the inspector, the name of the company, the API Std 653 certification number, or the signature of the authorized inspector responsible for the inspection as required by *API Std 653 Section 6.9 Reports*. Therefore, the Notice concluded that HEP failed to inspect the physical integrity of its in-service Tank #1201B at its Navajo Refinery in accordance with API Std 653.

In its Response, HEP contested the alleged violation.² HEP provided its Inspection Report, indicating that the inspection for Tank #1201B was last completed June 6, 2017. HEP stated that the inspection for Tank #1201B would not be due again until June 6, 2022. Accordingly, HEP contended that the proposed violation of *API Std 653 Section 6.3.2 External Inspection* is incorrect. HEP did not contest, however, the inadequacy of its Inspection Report or that information was not included as required by section 6.9.2.³

Section 195.432(b) states that “[e]ach operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std 653.”⁴ *API Std 653 Section 6.3.2 External Inspection* prescribes an external in-service breakout tank inspection cycle of every five years by an authorized inspector. *API Std 653 Section 6.9 Reports* prescribes the specific information that must be included in each inspection report, including among other things, the dates of inspection; recommendations; and the authorized inspector's name, company, API Std 653 certification number, and signature. In its Inspection Report, HEP failed to include the next inspection date or the inspection interval, any recommendations, the inspector's name, the company name, and the API Std 653 certification number, or an authorized inspector's signature. The deficiency of the Inspection Report is uncontested. The external inspections of the physical integrity of Tank #1201B did not comply with API Std 653 because the Inspection Report does not contain the required information, such as the signature of the authorized inspector.

Accordingly, after considering the evidence, I find Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of its in-service Tank #1201B at its Navajo Refinery in accordance with API Std 653.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

§ 195.432 Inspection of in-service breakout tanks.

² Response, at 2.

³ *Id.*

⁴ 49 C.F.R. § 195.432(b).

(a)

(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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to complete an internal inspection on three tanks at its El Paso PD Terminal and one tank at its Navajo Refinery in accordance with API Std 653. Specifically, the Notice alleged that HEP did not conduct initial internal inspections for Tank #216 (in-service year 2002), Tank #217 (in-service year 2008), and Tank #220 (in-service year 2009). The Notice alleged further that HEP used the 4th Edition of API Std 653, which is not incorporated by reference into the pipeline safety regulations,⁵ to justify its failure to conduct internal inspections. The Notice quoted *API Std 653 Section 6.4.2.2 Inspection Intervals* which states that the internal inspection interval may not exceed ten years.⁶ The Notice stated that at the time of inspection, more than ten years had passed since the in-service date for all three tanks at the El Paso PD Terminal and no internal inspections were conducted, contrary to API Std 653 Section 6.4.2.2.

The Notice also alleged that HEP's inspection report for Tank #1201B at its Navajo Refinery (dated May 28, 2009) lacked information as required by *API Std 653 Section 6.9 Reports*, such as corrosion rates of the bottom of the tank, settlement survey measurements and analysis, recommendations, drawings, photographs, non-destructive examination reports, and other pertinent information that should be appended to the report.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.432(b) by failing to complete an internal inspection on three tanks at its El Paso PD Terminal and one tank at its Navajo Refinery in accordance with API Std 653.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 195.573(a)(2) which states:

§ 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 §

⁵ See 49 C.F.R. § 195.3(b)(19), which incorporates by reference API Standard 653, "Tank Inspection, Repair, Alteration, and Reconstruction," 3rd edition, December 2001, (including addendum 1 (September 2003), addendum 2 (November 2005), addendum 3 (February 2008), and errata (April 2008)).

⁶ API Std 653, Section 6.4.2.2, Inspection Intervals

When corrosion rates are not known and similar service experience is not available to estimate the bottom plate minimum thickness at the next inspection, the internal inspection interval shall not exceed 10 years.

195.571:

(1)

(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).

The Notice alleged that Respondent violated 49 C.F.R. § 195.573(a)(2) by failing to identify, not more than two years after cathodic protection was 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. Specifically, the Notice alleged that HEP's engineering analysis report dated June 14, 2019, entitled "Close Interval Survey Evaluation and Determination Checklist" for Segment 1008 (MP 202 to MP 206, Magellan Station) and for Segment 1003 (Chevron to UNEV Pump Station) was insufficient to demonstrate compliance with the objectives of paragraph 10.1.1.3 of NACE SP 0169.⁷ In addition, the Notice alleged that during a field inspection from May 3 through May 6, 2021, the PHMSA inspector observed low cathodic protection readings due to alternate current interference issues from nearby sources on the pipeline from MP 202 to MP 206 at Magellan Station.

Respondent did not contest this allegation of violation. Accordingly, based on a review of the evidence, I find that Respondent violated 49 C.F.R. § 195.573(a)(2) by failing to identify, not more than two years after cathodic protection was 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.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 195.432(b) and 195.573(a)(2). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

A. With respect to the violation of § 195.432(b) (**Item 1**), Respondent must:

⁷ NACE SP 0169, ¶ 10.1.1.3

When practicable and determined necessary by sound engineering practice, a detailed (close-interval) potential survey should be conducted to: (a) assess the effectiveness of the CP system; (b) provide base line operating data; (c) locate areas of inadequate protection levels; (d) identify locations likely to be adversely affected by construction, stray currents, or other unusual environmental conditions; or (e) select areas to be monitored periodically.

- i. Update its “Monthly Inspection” form to provide, at a minimum, detailed information as stated in API 653 Appendix C. API Std 653 Appendix C Checklist for Tank Inspection is available to be used as guidance to the owner/operator for developing an inspection assessment. As stated in *API Std 653 Section 6.3.1.3*, routine in-service inspections (Monthly Inspections) must include a visual inspection of the tank’s exterior surfaces to inspect evidence of leaks; shell distortions; signs of settlement; corrosion; and the condition of the foundation, paint coatings, insulation systems, and appurtenances;
 - ii. Conduct Monthly Inspections for Tank #1201A and Tank #1201B at its Navajo Refinery in accordance with *API Std 653 Section 6.3.1 Routine In-Service Inspection*; and
 - iii. After conducting the Monthly Inspections, repair the deficiencies identified, including the cracked and eroded asphalt base around the foundation of Tank #1201A and Tank #1201B at its Navajo Refinery, which should direct runoff rain water away from the tank instead of under the tank.
- B. With respect to the violation of § 195.432(b) (**Item 2**), Respondent must:
- i. Conduct an external inspection for Tank #1201B in accordance with *API Std 653 Section 6.3 Inspections from the Outside of the Tank* and provide an External Inspection Report that will comply with *API Std 653 Section 6.9 Reports*. The report must include the tank’s next inspection date and/or inspection interval, any recommendations, the name of the inspector, company, API Std 653 certification number, and the signature of the authorized inspector responsible for the inspection.
- C. With respect to the violation of § 195.432(b) (**Item 3**), Respondent must:
- i. Conduct internal inspections by an authorized inspector for Tank #216, Tank #217, Tank #220, and Tank #1201B. The inspection reports must include detailed information as required by *API Std 653 Section 6.9 Reports*, such as corrosion rates of the bottom of the tank, settlement survey measurements and analysis, recommendations per 6.9.3.1, drawings, photographs, NDE reports and other pertinent information that should be appended to the report.
- D. With respect to the violation of § 195.573(a)(2) (**Item 4**), Respondent must:
- i. Demonstrate the circumstances in which a close-interval survey or comparable technology is practicable and necessary to ensure compliance with NACE SP 0169 paragraph 10.1.1.3 for segments 1008 (MP 202 to Magellan) and 1003 (Chevron to UNEV Pump Station) by completing the engineering analysis report, “Close Interval Survey Evaluation and Determination Checklist,” and providing justification in each section of the

report. If there is any deficiency found, HEP must conduct a close-interval survey or comparable technology and provide the report to PHMSA.

- E. HEP must submit all documentation demonstrating compliance with items A, B, C, and D to Mary L. McDaniel P.E., Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration, 8701 South Gessner, Suite 630 Houston, Texas 77074 for review within 90 days of receipt of the Final Order.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

February 17, 2022

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued