

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

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

November 2, 2021

Mark Cunningham
Senior Vice President of Operations
Holly Energy Partners - Operating, L.P.
2828 North Harwood Street, Suite 1300
Dallas, Texas 75201

CPF 4-2021-011 NOPV

Dear Mr. Cunningham:

From March 9, 2020, through July 2, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Holly Energy Partners - Operating, L.P.'s (HEP) systems located in Utah, Texas, New Mexico, and Oklahoma.

Based on the inspection, it is alleged that HEP has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 195.432 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.

HEP failed to adequately inspect the physical integrity of its in-service Tank #1201A and Tank #1201B at its Navajo Refinery in accordance with *API Std 653 Section 6.3.1 Routine In-Service Inspection*. API Std 653 Section 6.3.1.3 requires documentation of evidence of leaks; shell distortions; signs of settlement; corrosion; and condition of the foundation, paint coatings, insulation systems, and appurtenances.

During PHMSA's field inspection from June 28, 2021 to July 2, 2021, PHMSA's 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 neither of the reports contained notes indicating any cracked or eroded asphalt. A separate internal tank inspection record conducted by HEP's third party inspector (Qi2 Elements) on July 29, 2019 for Tank #1201A included a recommendation to repair the cracked and eroded asphalt base.

2. § 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.

HEP failed to inspect the physical integrity of its in-service Tank #1201B at its Navajo Refinery in accordance with API Std 653. Specifically, HEP did not complete an external inspection on Tank #1201B in accordance with *API Std 653 Section 6.3 Inspections from the Outside of the Tank* as required by § 195.432(b). *API Std 653 Section 6.3.2 External Inspection* requires external in-service breakout tank inspections by an authorized inspector every five years or RCA/4N years (where RCA is the difference between the measured shell thickness and the minimum required thickness in mils, and N is the shell corrosion rate in mils per year), whichever is less.

PHMSA reviewed HEP's Storage Tank In-Service External Visual Inspection Report for Tank #1201B (dated June 6, 2017) and found that the inspection report was inadequate to comply with *API Std 653 Section 6.9 Reports*. The report did not include information regarding the next inspection date or the inspection interval, any recommendations, the name of the inspector, company, API Std 653 certification number, or signature of the Authorized Inspector responsible for the inspection.

3. § 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.

HEP failed 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 Section 6.4.2 Inspection Intervals*. 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). HEP stated that it relied on API 4th edition incremental credits to determine that the internal inspection interval extended to 20 years, however, API 4th edition is not incorporated by reference in Part 195. HEP used the wrong API edition to justify its failure to conduct internal inspections, and instead should have used API Std 653 Section 6.4.2.2, which states: “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.” Therefore, the internal inspection interval for Tank #216, Tank #217, and Tank #220 should not have exceeded ten years, but at the time of PHMSA’s inspection, more than ten years had passed since the in-service date for all three tanks and no internal inspections were conducted.

In addition, HEP’s internal inspection report for Tank #1201B dated May 28, 2009 lacks detailed information as required by *API 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, and drawings, photographs, NDE reports and other pertinent information that should be appended to the report.

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:

(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).

HEP failed 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 (incorporated by reference, see § 195.3) as required by § 195.573(a)(2). NACE SP 0169 Section 10.1.1.3 states:

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.

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. The June 14, 2019 engineering analysis report was not completed for Segment 1008 (MP 202 to Magellan) or for Segment 1003 (Chevron to UNEV Pump Station).

In addition, during a field inspection from May 3-6, 2021, PHMSA 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.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violations occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violations occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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 violations 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 violations 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.

We have reviewed the circumstances and supporting documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

With respect to items 1, 2, 3, and 4 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 Enforcement Proceedings*. Please refer to this document and note the response options. 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).

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 4-2021-011 NOPV** 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 Enforcement Proceedings

Cc: Bridgette.Taylor@hollyenergy.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Holly Energy Partners - Operating, L.P. (HEP) a Compliance Order incorporating the following remedial requirements to ensure compliance with the pipeline safety regulations:

- A. In regards to Item 1 of the Notice pertaining to HEP's failure to adequately inspect the physical integrity of its in-service Tank #1201A and Tank #1201B at its Navajo Refinery in accordance with *API Std 653 Section 6.3.1 Routine In-Service Inspection*, HEP must:
 - 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. In regards to Item 2 of the Notice pertaining to HEP's failure to adequately perform an external in-service breakout tank inspection on Tank #1201B at the Navajo Refinery, HEP 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. In regards to Item 3 of the Notice pertaining to HEP's failure to complete internal inspections in accordance with *API Std 653 Section 6.4.2 Inspection Intervals*, HEP must:

- i. Conduct internal inspections by an authorized inspector for Tank #216, Tank #217, Tank #220, and Tank #1201B. The inspection report 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, and drawings, photographs, NDE reports and other pertinent information that should be appended to the report.
- D. In regards to Item 4 of the Notice pertaining to HEP's failure to identify not more than two 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) as required by § 195.573(a)(2), HEP must:
 - i. Demonstrate these circumstances 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.
- F. It is requested (not mandated) that HEP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel P.E., 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.