



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

8701 S. Gessner, Suite 630
Houston TX 77074

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

VIA ELECTRONIC MAIL

March 24, 2023

Michael Jennings
President, Holly Energy Partners
Holly Energy Partners – Operating, L.P.
2828 N. Harwood Street
Suite 1300
Dallas Texas 75201

CPF 4-2023-041-NOPV

Dear Mr. Jennings:

From February 28 to December 7, 2022, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected the following Holly Energy Partners – Operating, L.P. (Holly) assets: Osage Pipeline Company, LLC in Oklahoma, and Kansas; El Dorado Tanks in Kansas; and UNEV Pipeline, LLC in Nevada, and Utah.

As a result of the inspection, it is alleged that Holly has committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. **§ 195.583 What must I do to monitor atmospheric corrosion control?**
(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbanded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

Holly failed to inspect each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months, paying particular attention to pipe under thermal insulation in accordance with § 195.583(a) and (b) and its procedures: *EP 21-7-1 Atmospheric Corrosion Monitoring, Inspection, and Mitigation Procedure, dated 06/01/2021*. Specifically, Holly failed to conduct adequate atmospheric corrosion control inspections in 2017 and 2020 because it failed to install access plug flanges (APFs) for corrosion monitoring locations and failed to remove the thermal insulation to conduct its inspections.

Holly's atmospheric corrosion control procedure requires installation of inspection access plug flanges (APFs) for corrosion monitoring locations. The APFs should be 2.5 inches in diameter with silicone rubber plugs to allow for inspection of the pipe within the thermal insulation. During the field inspection for the Osage Pipeline, PHMSA observed a receiver in El Dorado, Kansas that was enclosed in thermal insulation with jacketing installed from the mainline receiver isolation valve to the trap door. PHMSA could not identify any APFs allowing for inspection of the pipe or any corrosion monitoring locations. Without any APFs, the pipe cannot be inspected for corrosion due to the thermal insulation.

As indicated in the atmospheric corrosion inspection records for 2017 and 2020, Holly failed to remove the thermal insulation to inspect the pipe, as required by § 195.583(b). Therefore, the pipe under the thermal insulation was not inspected in 2017 and 2020, and the inspection interval exceeded the 39-month requirement.

This is a repeat of a violation in CPF 4-2018-5005, Item #7.

Therefore, Holly failed to inspect each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with

intervals not exceeding 39 months, paying particular attention to pipe under thermal insulation in accordance with § 195.583(a) and (b) and its procedures.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists, up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 violation 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 violation 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 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.

We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of \$108,700 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$108,700

Proposed Compliance Order

With respect to Item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Holly Energy Partners. 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. 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).

Following your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 4-2023-041-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Bryan Lethcoe
Director, Southwest Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Holly Energy Partners (Holly) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Holly Energy Partners with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to Holly's failure to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months, paying particular attention to pipe under thermal insulation, Holly must identify all jurisdictional pipelines with thermal insulation. If access plug flanges (APFs) are installed, Holly must provide PHMSA with pictures of the APFs and the last two cycles of atmospheric corrosion inspections that specifically detail the condition of the pipe underneath the thermal insulation. If APFs are not installed, Holly must follow its procedure and install APFs at identified corrosion monitoring locations. After installation of the APFs, Holly must conduct atmospheric corrosion inspections of those pipelines and provide those records, including APF installation records and pictures, to the Director, Southwest Region, PHMSA within **120** days of issuance of the Final Order.

- B. It is requested (not mandated) that Holly Energy Partners maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Bryan Lethcoe, 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.