



Van P. Williams
Senior Counsel

1075 W. Sam Houston Parkway N.
Suite 200 (HST-S1332)
Houston, TX 77043
Phone: 832-765-1231
Fax: 832-765-0111
van.p.williams@p66.com

March 16, 2017

VIA ELECTRONIC MAIL AND
UPS NEXT DAY AIR

R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
8701 S. Gessner
Suite 630
Houston, Texas 77074

RE: Phillips 66 Request for Hearing; CPF No. 4-2017-5003

Mr. Seeley,

On behalf of Phillips 66 Pipeline LLC, and in response to the Notice of Probable Violation and Proposed Compliance Order (CPF 4-2017-5003) issued by PHMSA to Phillips 66 on February 13, 2017 and received on February 20, 2017, attached please find a Request for Hearing, Statement of Issues and a Written Response, pursuant to 49 CFR Parts 190.206 and 190.211.

Please let us know if you have any questions about these materials. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'V. Williams', written over a light blue horizontal line.

Van P. Williams

Enclosures

cc: Dave Barney/Phillips 66
Todd Tullio/Phillips 66

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

In the Matter of)	
)	
Phillips 66 Pipeline LLC,	)	CPF No. 4-2017-5003
	)	Notice of Probable Violation and
Respondent.	)	Proposed Compliance Order
	)	REQUEST FOR HEARING

Phillips 66 Pipeline LLC (Phillips 66 or the Company) respectfully requests an in-person hearing on the above-referenced Notice of Probable Violation and Proposed Compliance Order (NOPV), pursuant to 49 C.F.R. Parts 190.206 and 190.211. This NOPV was issued to Phillips 66 by the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency), Office of Pipeline Safety (OPS) on February 13, 2017, and received by Phillips 66 on February 20, 2017. Pursuant to 49 C.F.R. Part 190.206, this request is timely.

As required by 49 C.F.R. Part 190.211(b), this Request for Hearing includes a Statement of Issues (attached), which incorporates by reference a Written Response to the NOPV (attached). Please be advised in accordance with 49 C.F.R. Part 190.211(b) that Phillips 66 will be represented by the following counsel: Van Williams, Esq. (Phillips 66).

With this request, the Company also requests a complete copy of the case file for this matter, pursuant to 49 C.F.R. Part 190.209.

Phillips 66 is committed to the important goals of ensuring public safety and enhancing integrity on its pipeline systems and desires to work with PHMSA toward those goals. Phillips 66 is filing this Request for Hearing to clarify the issues underlying the NOPV and to demonstrate that its procedures comply with the relevant regulations and are sufficient to ensure safety.

Accordingly, and as set forth in the attached Written Response and Statement of Issues, the Company respectfully requests that the NOPV be withdrawn.

Respectfully submitted,

PHILLIPS 66 PIPELINE LLC



Van P. Williams
Senior Counsel
Phillips 66 Company
P.O. Box 4428
Houston, TX 77210
(832) 765-1231

Date: March 16, 2017

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

)	
In the Matter of)	
Phillips 66 Pipeline LLC,	)	CPF No. 4-2017-5003
Respondent.	)	Notice of Probable Violation and Proposed Compliance Order
	)	STATEMENT OF ISSUES
)	

In connection with its Request for a Hearing and in accordance with the requirements of 49 C.F.R. Part 190.211(b), Phillips 66 Pipeline LLC (Phillips 66 or the Company), hereby provides the Statement of Issues that it intends to raise at a Hearing, in response to the above referenced Notice of Probable Violation and Proposed Compliance Order (NOPV). The NOPV contains a single item, alleging that Phillips 66 failed to conduct internal inspections of three in-service breakout tanks at their required inspection dates in accordance with requirements of API Standard 653 section 6.4. By a separate response, Phillips 66 has presented its position on this alleged violation.

This Statement of Issues incorporates by reference the Company's Response to the Notice of Probable Violation and Proposed Compliance Order (Response).

Without admitting any facts or conclusions set forth in the NOPV, Phillips 66 intends to raise the following issues at a Hearing, which include questions of both fact and law:

1. *Whether consideration and extension of inspection dates be allowed for a recently acquired terminal facility.*
2. *Whether customer concerns and impact to the economy can be considered in the timing of such inspections and any extension of such inspection dates.*
3. *Whether PHMSA has the authority to require through a compliance order for an inspection to take place.*
4. *Whether PHMSA has the authority to require an inspection to be completed within a certain time period.*

**Phillips 66
Statement of Issues
CPF No. 4-2017-5003**

5. *Whether PHMSA has satisfied the requirements of 49 C.F.R. Part 190.217 whereby PHMSA may only issue a compliance order if the nature of the violation and the public interest so warrant.*
6. *Whether the proposed compliance order is arbitrary and capricious because it goes beyond the scope of the alleged violation.*
7. *Whether the proposed compliance order is vague and ambiguous.*

For all of these reasons, and other matters as justice may require, the Company respectfully requests that PHMSA withdraw the NOPV.

Respectfully submitted,

PHILLIPS 66 PIPELINE LLC



Van P. Williams
Senior Counsel
Phillips 66 Company
P.O. Box 4428
Houston, TX 77210
(832) 765-1231

Date: March 16, 2017

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

In the Matter of	)	CPF No. 4-2017-5003
	)	Notice of Probable Violation and
Phillips 66 Pipeline LLC,	)	Proposed Compliance Order
)	
Respondent	)	RESPONSE TO NOTICE OF
	)	PROBABLE VIOLATION AND
	)	PROPOSED COMPLIANCE
	)	ORDER

The Regional Director of the Southwest Region of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS or the Agency), issued a Notice of Probable Violation and Proposed Compliance Order (Notice or NOPV) to Phillips 66 Pipeline LLC (Phillips 66 or the Company) on February 13, 2017. The Notice consists of one item that alleges that on three occasions Phillips 66 failed to conduct internal inspections of their in-service breakout tanks at their required inspection dates in accordance with requirements of API Standard 653 section 6.4.

The Notice was issued following PHMSA's inspection on October 31, 2016 through November 2, 2016 of the Phillips 66 operated Beaumont terminal facility at or near Nederland, Texas. Without admitting the allegations, facts or conclusions set forth in the Notice, Phillips 66 seeks a Hearing on the alleged inadequacies described in the Notice. In addition, the Company respectfully requests that, given the information submitted in these pleadings, the Notice be withdrawn.

NOPV Allegations

The Notice alleges that on three occasions Phillips 66 failed to conduct internal inspections of their in-service breakout tanks at their required inspection dates in accordance with requirements of API Standard 653 section 6.4. Further, PHMSA proposes to issue a Compliance Order to Phillips 66 that would require Phillips to perform the inspections and provide documentation to indicate that the tanks have been inspected within 90 days following the receipt of the final order.

The Company believes that due to a recent change of ownership of this facility that there are extenuating circumstances which require an extension of the inspection dates for these tanks. Further, the Company questions the authority and reasonableness of the Proposed Compliance Order. Phillips 66's specific responses to the allegations in the Notice are set forth below:

1. **Alleged on three occasions Phillips 66 failed to conduct internal inspections of their in-service breakout tanks at their required inspection dates in accordance with requirements of API Standard 653 section 6.4**

Summary of Allegation: The Notice alleges that on three occasions Phillips 66 failed to conduct internal inspections of their in-service breakout tanks at their required inspection dates in accordance with requirements of API Standard 653 section 6.4.

Phillips 66 Response:

In order to address the alleged violation, it is important to understand the recent history of this facility. Phillips 66 acquired the Beaumont terminal from its prior owner in August, 2014. Upon taking ownership and operations of the terminal, Phillips 66 conducted many activities associated with the assets including structural integrity testing, visual inspections through increased frequency of ongoing visual confirmation of tank integrity and a review of the inspection records for each of the tanks at the terminal. The alleged violation is associated with three tanks at the Beaumont terminal that are a part of this ownership transition.

For each of the three tanks, the deadline for internal inspection occurred prior to the transfer of ownership from the previous owner to Phillips 66. There are other factors that may apply as to why the inspections were not performed and why certain inspection periods were revised. However, Phillips 66 does not contest that the deadline for internal inspection occurred prior to the inspection by PHMSA. It should be considered and was discussed during the PHMSA inspection that Phillips 66 has performed numerous tasks associated with the assets at the terminal, including a significant amount of inspection and integrity work on tanks at the terminal. Further, prior to the inspection, Phillips 66 had scheduled each of the three tanks for the required inspection as required by the API Standard 653. The timing of the inspections has been addressed along with the need to continue operations at the terminal to provide necessary services to the customers of the terminal. Phillips 66 has continued with its inspection and maintenance programs and there has been no incident which can be considered a threat to anyone's health or a threat to the environment during the duration of this transition.

Specifically, these three tanks were reviewed to address the risk of continuing operations as the transition was occurring. This schedule was addressed during the PHMSA inspection and the NOPV contains this timeline by identifying that Tanks 122 and 129 were scheduled to be taken out-of-service in late 2016 for the required inspection. Tank 126 was noted to be taken out-of-service in 2017. In fact, Phillips 66 took Tank 122 out of service in November 2016. It is anticipated that the inspection and related work will be complete and the tank will be in service in February 2018. Tank 129 was taken out of service in December 2016 and the tank is expected to be in service in November 2017. Upon reviewing Tank 126, including the fact that it contains a fiberglass liner, it was determined that it would stay in service to maintain necessary operations at the terminal until other tanks could be placed into service. Tank 126 is scheduled to be taken out of service in November 2017.

Phillips 66 requests that PHMSA consider this not as a facility that is out of compliance but that upon taking ownership of the terminal, Phillips 66 is taking the necessary but prudent measures to bring the terminal into compliance. Therefore, Phillips 66 request that there be a determination that the terminal is in compliance subject to the completion of the three identified tank inspections. If there is a determination that the tanks are not in compliance, that PHMSA consider the significant efforts made by Phillips 66 associated with the tank integrity work for the entire facility and that any directive or order associated with compliance work include timeframes that support continued operations and are realistic for the work that is necessary for the three tanks.

2. Alleged failure to conduct internal inspections of the three tanks at their required inspection dates in accordance with requirements of API Standard 653 section 6.4 mandates that a compliance order be issued which requires Phillips 66 to perform the inspections and provide documentation to indicate that the tanks have been inspected within 90 days following the receipt of the final order.

Summary of Allegation: The Notice alleges that the Phillips 66 must be subject to the proposed compliance order which requires Phillips 66 to perform the inspections and provide documentation to indicate that the tanks have been inspected within 90 days following the receipt of the final order.

Phillips 66 Response: Phillips 66 recognizes that the inspections are to be performed on the three tanks. However, it must be recognized that it is necessary to schedule such inspections in a manner in which the facility can continue to provide the necessary services to its customers. As discussed above, this terminal has recently changed ownership and it is necessary to conduct all necessary compliance tasks, including these inspections, many of which were necessary prior to the change of ownership.

The proposed compliance order is deficient in that it exceeds the scope of the regulatory requirement. The regulation requires that an in-service tank must meet the inspection requirements. The regulation does not require that the inspection be completed within a

certain time frame. At most, the regulation can be read to state that if a tank requires a tank inspection, it cannot be brought back into service without such inspection. In reality, a tank inspection for these three tanks, based on their size and types of products contained in the tanks, will require more than 90 days to be completed. Therefore, the proposed compliance order is not only overreaching but does not reflect the reasonable time necessary to conduct such activities.

Further, any mandate that requires that such inspection be completed would equate to an order that PHMSA mandates a company to perform such services. There is a significant difference between requiring that in order for an asset to be in service, it must meet regulatory requirements and an order requiring such inspection and associated expenses without allowing the company with an option of taking the tank out of service for purposes of PHMSA's jurisdiction. For this reason, the proposed compliance order is arbitrary and capricious and must be withdrawn.

Further, any mandate or order must reasonably consider the timeframes associated with these types and size tanks. The proposed compliance order states that the Phillips 66 must perform the inspection and provide documentation that verifies the completion of the inspection within 90 days. This requirement does not consider the realistic time necessary to conduct such work and is clearly arbitrary and capricious.

It is clear that the proposed compliance order exceeds the scope of the regulatory requirement of 49 CFR §195.432(b) and the scope and timeframe of the proposed inspections are arbitrary and capricious. Phillips 66 requests that the proposed compliance order be withdrawn.

Conclusion

For the reasons discussed above and in the related Statement of Issues, the Company respectfully requests that PHMSA withdraw the NOPV.

Respectfully submitted,

PHILLIPS 66 PIPELINE LLC



Van P. Williams
Senior Counsel
Phillips 66 Company
P.O. Box 4428
Houston, TX 77210
(832) 765-1231

Date: March 16, 2017