

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

|                            |   |                              |
|----------------------------|---|------------------------------|
|                            | ) |                              |
| In the Matter of           | ) |                              |
|                            | ) | CPF No. 5-2026-006-NOPV      |
| Phillips 66 Pipeline, LLC, | ) | Notice of Probable Violation |
|                            | ) |                              |
| Respondent.                | ) |                              |
|                            | ) |                              |

**Request for Informal Settlement Conference, Hearing,  
Preliminary Statement of Issues, and Request for Documents**

On March 25, 2026, the Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) issued a Notice of Probable Violation (Notice or NOPV) and Proposed Compliance Order (PCO) to Phillips 66 Pipeline, LLC (Phillips 66 or the Company) following an inspection of Phillips 66's Borger to Denver and Borger to Amarillo (BDAM) pipeline system. As a result of the inspection, PHMSA issued the NOPV alleging four probable violations of the pipeline safety regulations, three of which are issued as warning items (Items 2, 3, and 4) and one with proposed compliance obligations (Item 1). With this filing, Phillips 66 respectfully requests that PHMSA reconsider NOPV Items 1-4 and the associated PCO requirements for Item 1.<sup>1</sup>

Based on the facts at issue, documentation provided, and the applicable law, Phillips 66 believes that the four alleged violations are unwarranted and should be withdrawn. The Company also believes that these issues are capable of resolution outside of a hearing and respectfully requests the opportunity to have an informal settlement meeting with the PHMSA Western Region. In the event the parties are unable to resolve this matter via informal settlement, the Company is filing this Response pursuant to 49 C.F.R. §§ 190.208 and 190.211 to preserve its right to a hearing. Phillips 66 requests that the scheduling of a hearing be postponed to allow for the Company and PHMSA to engage in settlement discussions.<sup>2</sup>

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<sup>1</sup> Phillips 66's response to the allegations in the NOPV are due on May 8, 2026, in light of PHMSA's grant of an extension of time. *See* Letter from Dustin Hubbard to Doug Sauer (dated Apr. 22, 2026).

<sup>2</sup> In the event the parties proceed to a hearing, Phillips 66 will be represented by in-house counsel as well as outside counsel with Bracewell, LLP.

## **I. Response to PHMSA NOPV Allegations**

Phillips 66 maintains and follows robust integrity management procedures, including processes to conduct risk assessments, evaluate threats to pipeline systems, and determine appropriate assessment intervals. Notably, PHMSA integrity management regulations are performance based, allowing each operator to implement its own program for identifying and managing risks and threats. There is no defined standard or prescribed, outcome-determinative process for assessing susceptibility to cracking. The Company's procedures and processes are tailored to its pipeline systems and have been developed to allow the Company to effectively manage the risks and threats on its system, including cracking.

During PHMSA's inspection of the BDAM assets, Phillips 66 provided detailed explanations, described the processes set forth in its procedures and the bases for its resulting determinations, and produced all documents requested by PHMSA. Despite this engagement, as reflected in the documents previously provided to PHMSA and further explained below, the allegations in the Notice do not reflect a full or accurate understanding of the facts. Phillips 66 believes that additional clarification of the relevant processes and the associated terminology will fully resolve each of the four alleged violations identified in the Notice.

### ***A. Item 1 (49 C.F.R. § 195.452(c)(1)(i)(A) – Pipeline integrity management in high consequence areas)***

PHMSA alleges that "P66 failed to conduct a baseline assessment for the range of relevant threats to the pipeline segments of the BDAM located in an HCA or in a could affect HCA in accordance with § 195.452(c)(1)(i)(A)." PHMSA bases its conclusion on fundamental misunderstandings of Phillips 66's Integrity Management Program, including how it carries out its Crack Management Program and Baseline Screening Process, as well as its reliance upon its Long Seam Cracking Baseline Assessment Flowchart and its Stress Corrosion Cracking Baseline Assessment Flowchart.

Phillips 66 developed and applies its Long Seam Susceptibility Process and Stress Corrosion Cracking Susceptibility Process to determine whether a baseline inline inspection (ILI) to evaluating cracking is required in accordance with its Integrity Management Program. These frameworks assign each analyzed pipeline segment a rating of "High," "Medium," or "Low," which in turn determines the necessity and priority of further assessment of cracking. Under these procedures, a rating of "Medium" or "Low" indicates that a segment is considered *not* susceptible to cracking failure. The procedures clearly explain that while a "Low" or "Medium" prioritization means the segment is not susceptible to failure, the Company nevertheless proactively elects to monitor "Low" and "Medium" priority segments for changes that may impact susceptibility in the future, including through its Pressure Cycle Fatigue Analysis process, as described in its Crack Management Program procedures.

These procedures are compliant, in that (1) they describe a process for determining whether is a probable risk or threat related to cracks; and (2) the risk factors identified in 49 C.F.R. § 195.452(e) are considered, consistent with the requirements of § 195.452(c)(1)(i)(A) and the API RP 1176 framework, for both stress corrosion cracking (SCC) and long seam cracking. All segments at issue

were evaluated in accordance with the Company's Crack Management Program procedures and determined to be not susceptible. Accordingly, baseline ILIs to evaluate cracking are not required for the identified segments.

For these reasons, Phillips 66 contests this allegation and the associated proposed compliance order requirements and respectfully requests that they be withdrawn given that there is no basis in law or fact for the allegations.

***B. Item 2 (49 C.F.R. § 195.452(j)(4)(i) – Pipeline integrity management in high consequence areas)***

In the Notice, PHMSA alleges that "P66 failed to notify PHMSA 270 days before the end of the five-year interval of the justification for a longer interval based on engineering basis, and failed to propose an alternative interval for continual evaluation and assessment of the pipeline's integrity, for numerous pipeline segments identified on BDAM, as required by § 195.452(j)(4)(i)." Respectfully, Phillips 66 believes that these allegations are based on further misunderstanding of Phillips 66's procedures and processes.

Phillips 66 applied its Reassessment Interval Processes to establish reassessment intervals for all segments identified in the Notice. The Long Seam Susceptibility Reassessment Process considers the relevant risk factors in 49 C.F.R. § 195.452(e) and API RP 1176, results of prior assessments, and all other relevant information for each pipeline segment per 49 C.F.R. § 195.452(j)(3). The procedures also clearly define pipeline segments assigned a "Low" or "Medium" rating as *not* susceptible to a cracking failure. As such, those segments are not required to be reassessed with a cracking tool within five years. Segments assigned a "High" rating are considered susceptible and are therefore assigned a maximum reassessment interval of five years or less. In addition and as noted in the response to Item 1 above, even though segments assigned a "Medium" or "Low" rating are determined to not be susceptible to cracking, Phillips 66 elects to proactively perform continual integrity monitoring including through the Pressure Cycle Fatigue Analysis process described in the Company's procedures, exceeding the requirements the regulations.

With respect to the circumstances underlying the allegations in Item 2 of the Notice, the Company established reassessment intervals for each segment at issue in accordance with the compliant procedures described above. Applying those procedures and in consideration of the relevant risk factors, including that these segments are not subject to aggressive pressure cycling, all segments were determined to be not susceptible. As a result, the five-year cracking tool reassessment interval requirement does not apply, and no variance is required.

For these reasons, there is no basis in law or fact for PHMSA's allegations, and Phillips 66 respectfully requests that the allegation be withdrawn.

***C. Items 3 and 4 (49 C.F.R. § 195.452(j)(3) – Pipeline integrity management in high consequence areas; 49 C.F.R. § 195.416(b) – Pipeline Assessment)***

In Items 3 and 4 of the Notice, PHMSA alleges that Phillips 66 failed to establish periodic integrity assessment intervals of at least once every five years to run a cracking tool for one pipeline segment

located in a high consequence area (HCA) (Item 3) and at least once every ten years for two segments located outside of HCAs (Item 4). These allegations are not supported by the record.

As a matter of fact, Phillips 66 has completed all required integrity assessments within the reassessment intervals prescribed by 49 C.F.R. § 195.452(j)(3) for HCA segments and by 49 C.F.R. § 195.416(b) for non-HCA segments and in accordance with Phillips 66's procedures. Those assessments included the use of magnetic flux leakage, deformation, ultrasonic testing for metal loss, and ultrasonic testing for crack detection (UT-Crack) ILI technologies. Following completion of the UT-Crack ILI on each relevant segment, the Company evaluated the results in accordance with its Long Seam Susceptibility Reassessment Process, described in detail above. Under that process, the relevant segments were determined to be not susceptible to failure. As such, the mandatory reassessment interval requirements in §§ 195.452(j)(3) and 195.416(b) for cracking tool assessments do not apply.

Despite the absence of an applicable regulatory requirement, Phillips 66 has proactively established reassessment dates as preventive and mitigative measures for certain non-susceptible segments based largely on its Pressure Cycle Fatigue Analysis, described in its procedures. As explained in the paragraph above and earlier in this response, although Phillips 66 does not consider these segments to be susceptible to cracking failure, the Company elects to continually monitor the factors underlying the susceptibility analysis that have the potential to change substantially over time, in accordance with PHMSA guidance (*See* PHMSA Hazardous Liquid Management Rule Frequently Asked Questions, FAQ 6.11a, advising operators to have a process to re-evaluate the seam susceptibility determinations on an appropriate interval because such determinations involve factors that may have the potential to change substantially over time," such as operating pressure, prior pressure testing, and pressure cycling).<sup>3</sup> Accordingly, the Company's process acts as an additional layer of conservatism and safety beyond the regulatory requirements.

For the foregoing reasons, PHMSA's allegations are unsupported as a matter of law and fact, and Phillips 66 respectfully requests that the allegations be withdrawn.

## **II. Preliminary Statement of Issues**

1. Whether based on the facts and applicable law, PHMSA has met its burden to prove by a preponderance of the evidence that Phillips 66 did not comply with 49 C.F.R. §§ 195.452(c)(1)(i)(A), 195.452(j)(4)(i), 195.452(j)(3), and/or 195.416, as alleged in NOPV Items 1, 2, 3, and 4, respectively.
2. Whether based on the facts and applicable law, the allegations of violation of 49 C.F.R. §§ 195.452(c)(1)(i)(A), 195.452(j)(4)(i), 195.452(j)(3), and/or 195.416, as alleged in NOPV Items 1, 2, 3, and 4, respectively, contradict PHMSA's Pipeline Safety Enforcement Procedures and prior enforcement precedent.

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<sup>3</sup> *See* PHMSA Integrity Management Rule Frequently Asked Questions (Rev. Sep. 12, 2025), FAQ #6.11a (available at [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2025-09/Liquid%20IM%20FAQs%209-12-25%20revision.pdf](https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2025-09/Liquid%20IM%20FAQs%209-12-25%20revision.pdf)).

3. Whether the proposed compliance order requirements for Item 1 should be withdrawn because they:
  - (a) are unnecessary as there is no ongoing noncompliance that necessitates corrective action, and
  - (b) contradict PHMSA's Pipeline Safety Enforcement Procedures and prior enforcement precedent.
4. Whether adjudication of Warning items to determine if they are supported by facts and law is necessary for consistency with due process and DOT enforcement policy given that PHMSA is providing notice of an alleged violation that informs subsequent inspections and/or action by the Agency.<sup>4</sup>
5. Whether PHMSA's allegations of noncompliance under NOPV Items 1, 2, 3, and 4 are arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law in violation of the Administrative Procedure Act and in contradiction to DOT enforcement policy.
6. Whether PHMSA provided due process and fair notice, as required by the U.S. Constitution and the Administrative Procedure Act, in issuing alleged violations based on the facts and the applicable law.
7. Whether PHMSA has made available a copy of the complete case file in this matter pursuant to 49 C.F.R. § 190.209 and consistent with PHMSA's Revised Procedures for Determining the Contents of the Case File in Pipeline Safety Enforcement Proceedings (May 29, 2025).

### **III. Request for Documents**

Pursuant to the regulations at 49 C.F.R. §§ 190.209 and 190.212(c)(2), (c)(3), and (c)(7), and to both facilitate a meaningful settlement conference and to ensure a full and fair hearing in the event one occurs, Phillips 66 respectfully reiterates its request for a complete copy of the case file in this matter, which has not yet been provided as of this filing. To date, Phillips 66 has only received the Pipeline Safety Violation Report and the attached exhibits to the report. As such, Phillips 66 requests the entirety of the case file be provided, including but not limited to the following documents, as soon as possible but no later than 10 business days prior to the informal conference:

1. Any and all notes, documents, or electronic records "that the agency considered 'at the time it reached the decision' and its contemporaneous findings."<sup>5</sup>

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<sup>4</sup> See Gregory D. Cote, Acting General Counsel, US Dept. of Transportation, "Memorandum to Secretarial Officers and Heads of Operating Administrations," March 11, 2025 (available at <https://www.transportation.gov/sites/dot.gov/files/2025-03/Procedural%20Requirements%20for%20DOT%20Enforcement%20Actions.Cote%20Memo.Signed.03-11-2025.pdf>).

<sup>5</sup> *Id* at 7.

2. Any and all notes, memoranda, inspector training materials, guidance and other materials supporting PHMSA's position concerning the alleged probable violations in the NOPV.

These materials are "pertinent to the matters of fact and law" asserted and must therefore be provided pursuant to 49 U.S.C. § 60117(b)(1)(C) and as directed by DOT and PHMSA policy.<sup>6</sup>

#### **IV. Relief Requested**

For the reasons identified above, and in consideration of other matters as justice may require, Phillips 66 respectfully requests that NOPV Items 1, 2, 3, and 4 be withdrawn in their entirety including the proposed compliance order obligations for Item 1. As noted above, Phillips 66 believes these issues are capable of resolution without the need to proceed to a hearing and respectfully requests an informal settlement meeting with the Western Region. In advance of the requested settlement meeting or hearing (should it be necessary), and pursuant to 49 C.F.R. § 190.209, Phillips 66 requests a copy of the complete case file in this matter, to the extent not already provided.

Phillips 66 remains committed to operating its pipeline systems safely and in compliance with all applicable regulations, as well as to continuously working to improve their processes.

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<sup>6</sup> *Id.*; See Memorandum from Chief Counsel, PHMSA to Acting Associate Administrator for Pipeline Safety, PHMSA, "Revised Procedures for Determining the Contents of the Case File in Pipeline Safety Enforcement Proceedings," May 29, 2025 (available at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2025-06/PHMSA%20Chief%20Counsel%20Memo%20-%20Revised%20Procedures%20for%20Determining%20the%20Contents%20of%20the%20Case%20File%20in%20Pipeline%20Safety%20Enforcement%20Proceedings%205.29.2025.pdf>).

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Respectfully submitted,



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