



OFFICE OF CIVIL ENFORCEMENT

WASHINGTON, D.C. 20460

VIA E-MAIL

ACKNOWLEDGEMENT OF RECEIPT REQUESTED

Rich Harbison, Responsible Corporate Officer
Jonathan Miller, Director of Fuel Compliance
Lloyd Funk, Director of Regulatory Affairs
Phillips 66 Company
2331 City West Blvd
Houston, TX 77042
Rich.G.Harbison@p66.com
Jonathan.E.Miller@p66.com
Llyod.E.Funk@p66.com

Re: Notice of Violation (NOV) of Fuels Regulations
Case Number CAA-2024-8445

Dear Messrs. Harbison, Miller, and Funk:

The United States Environmental Protection Agency (EPA) has conducted an on-site inspection and review of Phillips 66 Company (Phillips 66) for compliance with Section 211 of the Clean Air Act (CAA) and the fuels regulations promulgated at 40 C.F.R. Parts 80 and 1090.¹ The compliance review focused on compliance years 2018 through 2022 and included an on-site inspection the week of February 27, 2023, a record review, and a review of Phillip 66's responses to written questions sent by the EPA.

Background

The purpose of the fuels regulations is to reduce emissions from fuel used in motor vehicles, nonroad vehicles, and engines and ensure that fuel used in these vehicles and engines does not harm the emission control technologies necessary to meet emissions standards. To achieve that purpose, the fuels regulations set standards for certain fuels parameters and require fuel manufacturers to comply with sampling, testing, recordkeeping, and reporting requirements designed to ensure compliance with those standards.

¹ The fuels regulations were previously located at 40 C.F.R. Part 80. In 2021, the fuels regulations were consolidated and reissued at 40 C.F.R. Part 1090.

Phillips 66 is a fuel manufacturer, which is defined as “any person who owns, leases, operates, controls, or supervises a fuel manufacturing facility.” 40 C.F.R. § 1090.80. Fuel manufacturers are required to perform testing to certify that each batch of fuel it produces, including diesel fuel, meets the applicable fuel standards. *See id.* § 1090.1310. Further, fuel manufacturers that conduct manual sampling must demonstrate homogeneity for sampling test results to be considered valid and used for fuel certification. *Id.* §§ 1090.1335(b)(4) and 1090.1337. Diesel fuel manufacturers must demonstrate homogeneity using the procedures specified in 40 C.F.R. §§ 1090.1337(d)(1) or (d)(2). *See id.* § 1090.1337(e).

Phillips 66 is a certified butane blender, which is defined as any person that “produces gasoline by blending certified butane into previously certified gasoline and that uses the provisions of 1090.1320(b) to meet the applicable sampling and testing requirements.” 40 C.F.R. § 1090.80. Among other sampling and testing requirements, the certified butane blender must conduct a quality assurance program to demonstrate that the certified butane it uses meets applicable standards. *Id.* § 1090.1320(b)(4). The quality assurance program must be conducted for each certified butane distributor every 90 days or every 500,000 gallons of certified butane received, whichever is more frequent. *Id.*

Alleged Violations

Based on the EPA’s on-site inspection, record review, and Phillip 66’s responses to the EPA’s written questions, the EPA has determined that:

1. Phillips 66 failed to demonstrate homogeneity for all diesel batches it produced at its Rodeo Refinery (Facility ID 8083) in compliance years 2021 and 2022, in violation of 40 C.F.R. §§ 1090.1310, 1090.1335(b)(4), 1090.1337(d), and 1090.1700; and
2. Phillips 66 failed to conduct a certified butane blender quality assurance program at the required frequency at its Amarillo Terminal (Facility ID 81947), Portland Terminal (Facility ID 7737), Conoco Products Terminal (Facility ID 7542), Wichita Terminal (Facility ID 7073), and Pasadena Terminal (Facility ID 7001) in compliance year 2022, in violation of 40 C.F.R. §§ 1090.1320(b)(4) and 1090.1700.

The EPA issues this notice of violation (NOV) pursuant to Sections 205 and 211 of the CAA, 42 U.S.C. §§ 7524 and 7545, for the violations identified above. Sections 205 and 211 of the CAA, as modified by 40 C.F.R. Part 19, authorize the EPA to assess a civil penalty of up to \$57,617 per day per violation, plus the economic benefit or savings resulting from each violation. 42 U.S.C. §§ 7524, 7545(d) and 40 C.F.R. § 19.4. In order to determine an appropriate penalty for each violation, the EPA considers the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of your business, your history of compliance with the CAA, actions taken by you to remedy the violation and prevent future violations, the effect of the penalty on your ability to continue in business, and other matters as justice may require. 42 U.S.C. § 7524. This NOV does not create any rights or waive any of your obligations under the CAA, but rather is for the purpose of notifying you of the violation.

The EPA attorney assigned to this matter is Ryan Bickmore. Ryan may be reached at (303) 312-6502, bickmore.ryan@epa.gov, or at the following address:

Ryan Bickmore
Air Enforcement Division (8MSU)
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202

We encourage early settlement of matters such as this. If we cannot settle this matter promptly, we reserve the right to file an administrative complaint or refer this matter of the United States Department of Justice with a recommendation to file a civil complaint in federal district court.

We are offering you an opportunity to confer with us about the violations alleged in this NOV. The conference will give you an opportunity to discuss the alleged violations and the steps you will take to come into compliance. You may contact Ryan Bickmore at the telephone number or email provided above to request such a conference. This request should be made as soon as possible, but no later than ten business days after your receipt of this NOV.

By offering the opportunity for a conference, or your participating in one, the EPA does not waive or limit its right to any remedy available to it under the CAA.

We appreciate your attention to this important matter.

Sincerely,

MARY GREENE Digitally signed by MARY
GREENE
Date: 2024.02.27 13:03:41
-05'00'

Signature/Date

Mary E. Greene, Director
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance

cc: Jessica Portmess, Attorney-Advisor, Fuels Enforcement Branch
Taylor Waanders, Chemical Engineer, Fuels Enforcement Branch
Ryan Bickmore, Attorney-Advisor, Fuels Enforcement Branch