REGION 2
NEW YORK, N.Y. 10007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Donald Susanen
Refinery Manager
Phillips 66 Company
1400 Park Ave
Linden, NJ 07036

Re: Finding of Violation, Phillips 66 Company
EPA Docket No. CAA-02-2024-1601

Dear Mr. Susanen:

The United States Environmental Protection Agency ("EPA") Region 2 issues this Finding of Violation (FOV) to Phillips 66 Company ("Phillips 66") under Section 113(a)(1) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(a)(1), in connection with its ownership and/or operation of a facility located at 1400 Park Ave in Linden, New Jersey ("the Facility"). This FOV identifies violations of 40 C.F.R. Part 63, Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries ("Refinery MACT"); 40 C.F.R. Part 61, Subpart FF - National Emission Standard for Benzene Waste Operations ("BWON"); 40 C.F.R. Part 60, Subpart Ja - Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007 ("Refinery NSPS"); and the Facility's Title V operating permit.

If Phillips 66 would like to schedule a conference to discuss this FOV, please have your legal counsel contact Sara Amri, Assistant Regional Counsel, at **amri.sara@epa.gov**, within ten (10) days of your receipt of this letter and the enclosed FOV. Should you have technical questions, please contact Ralph Lonergan, Environmental Engineer, at **lonergan.ralph@epa.gov**.

Sincerely,
CHRISTINE ASH
Digitally signed by CHRISTINE ASH
Date: 2024.03.19 21:22:06 -04'00'

Christine Ash, Acting Director
Enforcement and Compliance Assurance Division

Enclosure: Finding of Violation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF: Phillips 66 Company RESPONDENT	**Finding of Violation** Index No. CAA-02-2024-1601

SUMMARY

The United States Environmental Protection Agency ("EPA"), Region 2 issues this Finding of Violation (FOV) to Phillips 66 Company ("Phillips 66" or "Respondent") under Section 113(a)(1) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(a)(1). Phillips 66 owns and/or operates a facility located at 1400 Park Ave. in Linden, New Jersey ("the Facility"). This FOV also identifies violations of 40 C.F.R. Part 63, Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries ("Refinery MACT"); 40 C.F.R. Part 61, Subpart FF - National Emission Standard for Benzene Waste Operations ("BWON"); 40 C.F.R. Part 60, Subpart Ja - Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007 ("Refinery NSPS"); and the Facility's Title V operating permit.

STATUTORY AND REGULATORY BACKGROUND

CAA Sections 112, 111 and 114

1. Section 112 of the Act requires the EPA Administrator to: (i) publish a list of hazardous air pollutants ("HAPs"), (ii) publish a list of categories and subcategories of major and area sources of

those HAPs, and (iii) promulgate regulations establishing emission standards for each such category and subcategory.

2. Emissions standards promulgated pursuant to Section 112 of the Act are commonly known as National Emission Standards for Hazardous Air Pollutants ("NESHAPs").

3. Section 112(a)(3) of the Act defines "stationary source" as any building, structure, facility, or installation which emits or may emit any air pollutant.

4. Section 112(a)(9) of the Act defines "owner or operator" as any person who owns, leases, operates, controls, or supervises a stationary source.

5. Section 112(i)(3)(A) prohibits the operation of a source in violation of any emissions standard, limitation or regulation issued pursuant to Section 112, and directs the Administrator to set a compliance deadline for existing sources that is no more than 3 years after the effective date of the standard.

6. Section 111 of the Act provides for "standards of performance" for new and existing stationary sources of air pollution. Under Section 111(b) of the Act, EPA is required to promulgate standards of performance for new stationary sources, commonly known as New Source Performance Standards ("NSPS").

7. Section 111(a)(1) of the Act defines "standard of performance" as a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which, taking into account the cost of achieving such reduction and other specified factors, the Administrator determines has been adequately demonstrated.

8. Section 114 of the CAA authorizes the EPA Administrator to require sampling or testing, monitoring, record-keeping, and reporting of information, to enable him or her to carry out any

provision of the Act (except certain provisions in Subchapter II) and to assess compliance with, among other requirements, any regulations promulgated under Sections 111 or 112 of the Act.

9. Section 302(e) of the CAA defines "person" to include an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

10. On March 7, 1990, EPA promulgated the NESHAP for Benzene Waste Operations. 55 Fed. Reg. 8346.

11. On August 18, 1995, EPA promulgated the NESHAP for Petroleum Refineries. 60 Fed. Reg. 43260.

12. On June 24, 2008, EPA promulgated the NSPS for Petroleum Refineries. 73 Fed. Reg. 35867.

BWON Requirements (40 C.F.R. Part 61, Subpart FF)

13. 40 C.F.R. § 61.340(a) of the BWON provides that owner/operators of chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries are subject to the BWON.

14. 40 C.F.R. § 61.341 of the BWON states that a "waste management unit" means a piece of equipment, structure, or transport mechanism used in handling, storage, treatment, or disposal of waste. Examples of a waste management unit include a tank, surface impoundment, container, oil-water separator, individual drain system, steam stripping unit, thin-film evaporation unit, waste incinerator, and landfill.

15. 40 C.F.R. § 61.342(c) of the BWON provides that the owner/operator of a facility at which the total annual benzene quantity from facility waste is equal to or greater than 10 Mg/yr

(11 ton/yr) as determined in 40 C.F.R. § 61.342(a) of the BWON shall manage and treat the facility waste as specified in 40 C.F.R. § 61.342(c)(1)-(3) of the BWON.

16. 40 C.F.R. § 61.342(d) of the BWON provides that the owner/operator of a facility at which the total annual benzene quantity from the facility waste is equal to or greater than 10 Mg/yr (11 ton/yr), as determined by 40 C.F.R. § 61.342(a) of the BWON, may elect to manage and treat facility process wastewater to achieve a total annual benzene quantity from facility process wastewater less than 1 Mg/yr (1.1 ton/yr). The owner/operator shall manage and treat facility waste other than process wastewater in accordance with 40 C.F.R. § 61.342(c)(1).

17. As an alternative to 40 C.F.R. § 61.342(c) and (d), 40 C.F.R. § 61.342(e) of the BWON provides that an owner/operator of a facility at which the total annual benzene quantity from facility waste is equal to or greater than 10 Mg/yr (11 ton/yr) may elect to manage and treat the facility waste by, among other requirements, managing and treating facility waste with a flow-weighted annual average water content of less than ten (10%) percent in accordance with the requirements of 40 C.F.R. § 61.342(c)(1).

18. 40 C.F.R. § 61.342(e) of the BWON also provides that that an owner/operator who elects this compliance option shall manage and treat facility waste (including remediation and process unit turnaround waste) with a flow-weighted annual average water content of ten (10%) percent or greater, on a volume basis as total water, and each waste stream that is mixed with water or wastes at any time such that the resulting mixture has an annual water content greater than ten (10%) percent. The benzene quantity for the wastes described must be equal to or less than 6.0 Mg/yr (6.6 ton/yr), as determined by 40 C.F.R. § 61.355(k).

19. 40 C.F.R. § 61.355(k)(1) of the BWON provides that for each waste stream that is not controlled for air emissions, as applicable to the waste management unit that manages the waste, the benzene quantity shall be determined as specified in 40 C.F.R. § 61.355(a).

20. 40 C.F.R. § 61.355(a)(2) of the BWON provides that the total annual benzene quantity from facility waste is calculated by adding together the annual benzene quantity for each waste stream generated during the year.

21. 40 C.F.R. § 61.355(b) of the BWON provides that the for the purposes of the calculation required by 40 C.F.R. § 61.355(a), an owner or operator shall determine the annual waste quantity at the point of waste generation.

22. 40 C.F.R. § 61.355(c)(1)(iii) of the BWON provides that when determining the flow-weighted annual average benzene concentration, mixing or diluting waste streams with other wastes or other materials shall not be used in the determination—to reduce the benzene concentration.

23. 40 C.F.R. § 61.342(c)(1)(ii) of the BWON provides that for each waste stream that contains benzene, including (but not limited to) organic waste streams that contain less than ten (10%) percent water and aqueous waste streams, the owner/operator shall comply with the standards specified in 40 C.F.R. § 61.343 through 61.347 of the BWON for each waste management unit that receives or manages the waste stream prior to and during treatment of the waste stream in accordance with 40 C.F.R. § 61.342(c)(1)(i) of the BWON.

24. 40 C.F.R. § 61.343(a) of the BWON provides that for each tank in which waste streams are placed, the owner/operator shall: (1) install, operate, and maintain a fixed-roof and closed-vent system, which meets the requirements of 40 C.F.R. § 61.343(a)(1)(i), that routes all organic vapors vented from the tank to a control device; and (2) install, operate, and

maintain an enclosure and closed-vent system, designed and operated in accordance with the requirements of 40 C.F.R § 61.349, that routes all organic vapors vented from the tank, located inside the enclosure, to a control device.

25. 40 C.F.R. § 61.351 of the BWON provides that as an alternative to the tank requirements of 40 C.F.R. § 61.343, an owner/operator shall comply with the fixed roof and internal floating roof requirements of 40 C.F.R. § 60.112b(a)(1); an external floating roof that meets the requirements of 40 C.F.R. § 60.112b (a)(2); or an alternative means of emission limitation as described in 40 C.F.R. § 60.114b.

Refinery MACT Requirements (40 C.F.R. Part 63, Subpart CC)

26. 40 C.F.R. § 63.640(a) of the Refinery MACT provides that the subpart applies to petroleum refining process units located at a plant site that is a major source as defined by Section 112(a) of the CAA and emit or have equipment containing or contacting one or more hazardous air pollutants listed in table1 of the Refinery MACT.

27. 40 C.F.R. § 63.640(c) of the Refinery MACT provides that affected sources shall comprise all emission points from, *inter alia*, equipment leaks from petroleum refining process units, storage vessels associated with petroleum refining process units and gasoline loading racks classified under Standard Industrial Classification code 2911.

28. 40 C.F.R. § 63.648(j)(1) of the Refinery MACT provides that, except during a pressure release, all pressure relief devices in organic HAP service shall operate with an instrument reading of less than 500 ppm above background, as detected by Method 21 of 40 C.F.R. Part 60, appendix A.

29. 40 C.F.R. § 63.670(e) of the Refinery MACT provides that for each flare used as a control device for an emission point subject to the subpart, the owner or operator shall operate to

maintain the net heating value of flare combustion zone gas at or above 270 British thermal units per standard cubic feet ("Btu/scf") determined on a 15-minute block period basis when regulated material is routed to the flare for at least 15-minutes as specified in 40 C.F.R. § 63.670(m).

30. 40 C.F.R. § 63.670(m)(2) of the Refinery MACT provides that the owners or operators of flares that use the feed-forward calculation methodology in 40 C.F.R. § 63.670(m)((l)(5)(i) and that monitor gas composition or net heating value in a location representative of the cumulative vent gas stream and that directly monitor flare supplemental gas flow additions to the flare must determine the 15-minute block average NHVcz using the following equation:

$$NHV_{cz} = \frac{\left(Q_{vg} - Q_{NG2} + Q_{NG1}\right) \times NHV_{vg} + \left(Q_{NG2} - Q_{NG1}\right) \times NHV_{NG}}{\left(Q_{vg} + Q_{s} + Q_{a,premix}\right)}$$

Where:

- NHV_{cz} = Net heating value of combustion zone gas, Btu/scf.
- NHV_{vg} = Net heating value of flare vent gas for the 15-minute block period, Btu/scf.
- Q_{vg} = Cumulative volumetric flow of flare vent gas during the 15-minute block period, scf.
- Q_{NG2} = Cumulative volumetric flow of flare supplemental gas during the 15-minute block period, scf.
- Q_{NG1} = Cumulative volumetric flow of flare supplemental gas during the previous 15-minute block period, scf. For the first 15-minute block period of an event, use the volumetric flow value for the current 15-minute block period, *i.e.,* $Q_{NG1} = Q_{NG2}$.
- NHV_{NG} = Net heating value of flare supplemental gas for the 15-minute block period determined according to the requirements in paragraph (j)(5) of this section, Btu/scf.
- Q_s = Cumulative volumetric flow of total steam during the 15-minute block period, scf.
- $Q_{a,premix}$ = Cumulative volumetric flow of premix assist air during the 15-minute block period, scf.

31. 40 C.F.R. § 63.655(g) of the Refinery MACT provides that an owner or operator subject to the Refinery MACT shall submit Periodic Reports no later than sixty (60) days after the end of each 6-month period that includes all the 15-minute block periods for which the applicable operating limits specified in § 63.670(d) through (f) are not met, including the net heating value operating parameters.

Refinery NSPS Requirements (40 C.F.R. Part 60, Subpart Ja)

32. 40 C.F.R. § 60.100a(a) of the Refinery NSPS provides that the provisions of the subpart apply to the following affected facilities in petroleum refineries: fluid catalytic cracking units (FCCU), fluid coking units (FCU), delayed coking units, fuel gas combustion devices (including process heaters), flares and sulfur recovery plants.

33. 40 C.F.R. § 60.100a(b) of the Refinery NSPS provides that for flares, the provisions of the Refinery NSPS apply only to flares which commenced construction, modification, or reconstruction after June 24, 2008.

34. 40 C.F.R. § 60.101a of the Refinery NSPS defines a flare as a combustion device that uses an uncontrolled volume of air to burn gases. The flare includes the foundation, flare tip, structural support, burner, igniter, flare controls, including air injection or steam injection systems, flame arrestors and the flare gas header system. In the case of an interconnected flare gas header system, the flare includes each individual flare serviced by the interconnected flare gas header system and the interconnected flare gas header system.

35. 40 C.F.R. § 60.101a of the Refinery NSPS defines fuel gas as any gas which is generated at a petroleum refinery, and which is combusted. Fuel gas includes natural gas when the natural gas is combined and combusted in any proportion with a gas generated at a refinery. Fuel gas does not include gases generated by catalytic cracking unit catalyst

regenerators, coke calciners (used to make premium grade coke) and fluid coking burners but does include gases from flexicoking unit gasifiers and other gasifiers. Fuel gas does not include vapors that are collected and combusted in a thermal oxidizer or flare installed to control emissions from wastewater treatment units other than those processing sour water, marine tank vessel loading operations or asphalt processing units (i.e., asphalt blowing stills).

36. 40 C.F.R. § 60.103a(h) of the Refinery NSPS provides that an owner or operator shall not burn in any affected flare any fuel gas that contains hydrogen sulfide ("H2S") in excess of 162 parts per million volume ("ppmv") determined hourly on a 3-hour rolling average basis. The combustion in a flare of process upset gases or fuel gas that is released to the flare as a result of relief valve leakage or other emergency malfunctions is exempt from this limit.

37. 40 C.F.R. § 60.108a(d) provides that an owner or operator subject to the Refinery NSPS shall submit an excess emissions report for all periods of excess emissions according to the requirements of 40 C.F.R. § 60.7(c), except that the report shall contain, among other requirements, the following information: 1) the date that the exceedance occurred; 2) an explanation of the exceedance; 3) whether the exceedance was concurrent with a startup, shutdown or malfunction of an affected facility or control system; and 4) description of the action taken, if any.

Title V Permit Requirements

38. Section 502(a) of the Act, 42 U.S.C. § 7661a(a) provides, among other things, that after the effective date of any permit program approved or promulgated under Title V of the Act, it shall be unlawful for any person to violate any requirement of a permit issued under Title V

of the Act or to operate a Title V affected source, except in compliance with a permit issued by a permitting authority under Title V of the Act.

39. Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), EPA promulgated 40 C.F.R. Part 70, State Operating Permit Program regulations, and 40 C.F.R. Part 71, Federal Operating Permit Program regulations.

40. Section 502(d) of the Act, 42 U.S.C. § 7661a(d) requires each state to develop and submit to the EPA, a permit program meeting the requirements of Title V of the Act.

41. Pursuant to Section 502(e) of the Act, EPA retains its authority to enforce Title V permits issued by a state.

42. Section 503(b)(2) of the Act, 42 U.S.C. § 7661b(b)(2), provides that the regulations promulgated pursuant to Section 502(b) of the Act shall require that the permittee periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the Title V permit.

43. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), directs that each Title V operating permit include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and any such conditions as are necessary to assure compliance with applicable requirements of the CAA, including the requirements of the applicable state implementation plan.

44. Pursuant to Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d), New Jersey developed and submitted N.J.A.C. 7:27-22 (the New Jersey Title V operating permit program) to EPA, to meet the requirements of Title V of the Act, and 40 C.F.R. Part 70, promulgated pursuant to Section 502(b) of the Act.

45. EPA granted interim approval of the New Jersey Title V operating permit program, N.J.A.C. 7:27-22, with an effective date of June 17, 1996. 61 Fed. Reg. 24715 (May 16, 1996).

46. EPA granted full approval of the New Jersey Title V operating permit program, with an effective date of November 30, 2001. 66 Fed. Reg. 63168 (December 5, 2001).

47. N.J.A.C. 7:27-22.16(e) provides that each Title V operating permit issued by the permitting authority shall incorporate the provisions of any effective preconstruction permit and operating certificate issued for the facility, or any part thereof, if the preconstruction permit or operating certificate was issued prior to the date the applicant submitted the application for the operating permit, and was included by the applicant in the application; or was issued subsequent to the date the application was submitted, and prior to the date the permitting authority issues the draft operating permit.

48. On August 14, 2003, New Jersey Department of Environmental Protection (NJDEP) issued an initial Title V Permit to Phillips 66, which was most recently renewed on July 16, 2013 (Permit Activity Number BOP l30003, Program Interest Number 41805) ("the Title V permit renewal"). The Permit was modified on March 1, 2021, Permit Activity Number BOP200001, Program Interest Number 41805 ("2021 Title V Permit Modification"). The Title V permit expired on August 12, 2018, and on June 28, 2017, Phillips timely submitted a Title V permit renewal application. Phillips 66 currently operates under an application shield.

49. Reference #13 on page 241 of the 2021 Title V Permit Modification states that "[t]he owner or operator shall comply with 40 C.F.R. [§] 61.340 through 40 C.F.R. [§] 61.355."

50. Reference #46 on page 15 of the 2021 Title V Permit Modification identifies the equipment leak standards at 40 C.F.R. § 63.648 as an applicable requirement for fugitive emissions

from valves, fittings, pressure relief devices, closed vent systems, sumps, sewers, drains, compressor, and pumps located at the Facility.

51. Reference #4 on page 759 of the 2021 Title V Permit Modification states that "[t]he owner or operator shall not burn any affected flare any fuel gas that contains H2S in excess of 162 ppmv determined hourly on a 3-hour rolling average basis."

52. Reference #7 on page 760 of the 2021 Title V Permit Modification requires the submission of "an excess emissions report for all periods of excess emissions according to the requirements of 40 C.F.R. [§] 60.7(c) except that the report shall contain the information specified at 40 [§] C.F.R. [§] 60.108a(d)(1) through (7)."

FINDINGS OF FACT

53. The following findings of fact are based on an investigation conducted by EPA pursuant to Section 114 of the CAA, 42 U.S.C. § 7414. The investigation included, among other actions, inspection of the Respondent's Linden, NJ facility and reviewing records Respondent provided as result of EPA's inspection.

54. Respondent is a "person" within the meaning of Section 302(e) of the Act.

55. The Facility is a "major source" under Section 112(a)(1) of the Act.

56. Respondent is an "owner or operator" of the Facility within the meaning of Section 112(a)(9) of the Act.

57. Respondent owns and operates the refinery and gasoline racks located at 1400 Park Ave. in Linden, New Jersey.

58. Respondent operates five non-acid gas flares at its Facility: "ABW", "CLEU", "poly", "ARV" and "east side" flares.

59. EPA Compliance Inspectors inspected the Facility on October 25-29, 2021. The inspection included visual observations of process equipment using a FLIR infrared camera and leak detection monitoring using Thermo Scientific TVA 2020 flame ionization detection instruments (TVA).

60. Respondent's Facility is subject to the requirements of BWON at Tanks 53, 59 and 595.

61. Tanks 53 and 59 at the Facility receive benzene-containing wastewater water from several refinery wastewater sources and are used to separate oil from the water.

62. Tanks 53 and 59 are pressure vessels that are designed to contain the waste without venting.

63. Tanks 53 and 59 are not vented to a control device nor equipped with a floating roof.

64. During the EPA inspection, Inspectors observed emissions from the pressure relief device with the FLIR infrared camera on Tank 53 during routine operation.

65. During the EPA inspection, Inspectors observed with the TVA emissions greater than 500 ppm from Tank 53's pressure relief device.

66. A review of the Facility's 2020 Total Annual Benzene (TAB) Report, show that more than 100 Mg benzene per year is managed by Tanks 53 and 59.

Process Unit	**Benzene quantity in waste sent to spheres 53 or 59 in Mg/year**
Pipe Stills	0.004
Powerformer	5.8
Benzene Saturation Unit	0.2
CLEU Process	2.8
DSU 1	9.97
DSU 2	12.1
FCCU	0.03
Alkylation	0.04
Cat Naptha Hydrotreater	58.7
ISOM	0.137
Poly Unit	0.0008
PWTU-3	11.35

Total:	**101 Mg/year**

67. A review of the Facility's 2020 TAB report shows that many tank water draws are collected in Tank 595.

68. The tank water draws are waste streams that contain benzene at the point of waste generation, ranging from less than 0.1 Mg/year to 14 Mg/year.

69. The benzene in the water draws waste streams is contained in the organic layer that is carried over with the aqueous waste, which is then separated by gravity at Tank 595 and returned to the crude tanks.

70. The aqueous waste is discharged from Tank 595 into the uncontrolled sewer system, where the benzene is counted towards the Facility's 6 Mg/year limit.

71. Based on discussions with Facility representative and an analysis of how the facility manages its waste streams subject to BWON, it was determined that the wastewater in Tank 595 is diluted with fresh water prior to sampling.

72. Respondent's Facility is subject to the requirements of the Refinery MACT and NSPS at its non-acid gas flares.

73. A review of monitoring data, covering the period of January 30, 2019, through September 30, 2021, of the Facility's waste gas flares indicate that Respondent did not maintain flare combustion zone gas at or above 270 Btu/scf for the following 15-minute block periods:

Flare	Time Period	Number of 15-minute blocks NHVcz < 270 Btu/scf	% of Operating Time
ABW	1/30/19-9/30/21	1,900	2.0%
Poly	1/30/19-9/30/21	521	0.6%
CLEU	1/01/21-9/30/21	31	0.1%
ARV	1/01/21-9/30/21	2,608	10.0%
Eastside	1/01/21-9/30/21	117	0.4%

74. Respondent's Refinery MACT semi-annual reports state that the Facility demonstrates compliance with the flare combustion zone requirements of the Refinery MACT using the Feed Forward methodology, as specified in 40 C.F.R. § 63.670(m)(2).

75. A review of Refinery MACT semi-annual reports for 2020 and the first half of 2021 indicate that Respondent did not report all periods where the flares did not maintain flare combustion zone gas at or above 270 Btu/scf.

76. A review of the Facility's Refinery NSPS flare management plan for the main refinery flare grid state that the ABW, CLEU, poly, ARV and east side flares are all subject to the requirements of 40 C.F.R. § 60, Subpart Ja.

77. Flares subject to 40 C.F.R. § 60, Subpart Ja are limited to burn fuel gas with a maximum H_2S concentration of 162 ppmv on a 3-hour average.

78. A review of flare monitoring data, including 1-hour and 3-hour average H_2S concentrations in ppmv, from January 1, 2018, through September 31, 2021 show the Facility exceeded the 3-hour rolling average of 162 ppmv H_2S limit on at least 1,734 instances.

79. A review of the quarterly Refinery NSPS reports submitted by the Facility that cover the requirements for the flare systems for 2018 through the second quarter of 2021 show that the Facility has not reported all the exceedances of the 162 ppmv H_2S limit, as described in paragraph 78.

80. Respondent's Facility is subject to the requirements of the Refinery MACT at its gasoline loading racks.

81. During the EPA inspection of the Facility's gasoline loading racks, Facility personnel indicated that no pressure relief events occurred.

82. During the EPA inspection of the Facility's gasoline loading racks, inspectors observed with the FLIR infrared camera, a pressure relief device between the gasoline loading tack terminal and the bladder tank to which the vapor recovery lines connect.

FINDINGS OF VIOLATION

83. EPA finds, from the Findings of Fact set forth above, that Respondent owns and/or operates a petroleum refinery, pursuant to 40 C.F.R. § 61.340(a), and is therefore subject to the BWON.

84. EPA finds, from the Findings of Fact set forth above, that Respondent owns and/or operates gasoline loading racks, pursuant to 40 C.F.R. § 63.640(a) and 40 C.F.R. § 63.640(c) and is therefore subject to the Refinery MACT.

85. EPA finds, from the Findings of Fact set forth above, that Respondent owns and/or operates flares as control devices for emission points subject to the Refinery MACT, pursuant to 40 C.F.R. § 63.670, and is therefore subject to the Refinery MACT.

86. EPA finds, from the Findings of Fact set forth above, that Respondents own and/or operate flares at its petroleum refinery, pursuant to 40 C.F.R. § 60.100a(a) and is therefore subject to the requirements of the Refinery NSPS.

87. EPA finds, from the Findings of Fact set forth above, that Respondent neither vented the emissions from Tanks 53 and 59 to a control device, nor installed a floating roof at the tanks, in violation of 40 C.F.R. § 61.343(a) of the BWON and the Facility's Title V permit.

88. EPA finds, from the Findings of Fact set forth above, that Respondent failed to operate the pressure relief device on Tank 53 with detectable emission below 500 ppm, in violation of 40 C.F.R. § 63.648(j)(1) of the Refinery MACT, and the Facility's Title V permit.

89. EPA finds, from the Findings of Fact set forth above, that Respondent exceeded the 6.0

Mg/year of allowable uncontrolled bezene quantity in the Facility's wastewater, in violation of 40 C.F.R. § 61.342(e) of BWON and the Facility's Title V permit.

90. EPA finds, from the Findings of Fact set forth above, that Respondent diluted the waste streams from Tank 595 with water prior to sampling, in violation of 40 C.F.R. § 61.355(c)(1)(iii) of the BWON and the Facility's Title V permit.

91. EPA finds, from the Findings of Fact set forth above, that Respondent operated refinery flares with the net heating value of the flare combustion zone gas of less than 270 Btu/scf on a 15-minute block period basis on at least 1,734 instances, in violation of 40 C.F.R. § 63.670(e) of the Refinery MACT.

92. EPA finds, from the Findings of Fact set forth above, that Respondent failed to report all deviations of the requirement to maintain the net heating value of the flare combustion zone gas at or above 270 Btu/scf, in violation of 40 C.F.R. § 63.355(g)(11)(iii) of the Refinery MACT.

93. EPA finds, from the Findings of Fact set forth above, that Respondent failed operate the pressure relief device between the gasoline loading tack terminal and the bladder tank to which the vapor recovery lines connect with emissions of less than 500 ppm, in violation of 40 C.F.R. § 63.648(j)(1) of the Refinery MACT and the Facility's Title V permit.

94. EPA finds, from the Findings of Fact set forth above, that Respondent flared gas from ABW, CLEU, poly, ARV and east side flares that contained hydrogen sulfide in excess of 162 ppmv, determined hourly on a 3-hour rolling average, in violation of 40 C.F.R. § 60.103a(h) of the Refinery NSPS and the Facility's Title V permit.

95. EPA finds, from the Findings of Fact set forth above, that Respondent failed to report all exceedances of the limit of flaring fuel gas that contains hydrogen sulfide in excess of 162

ppmv, determined hourly on a 3-hour rolling average, in violations of 40 C.F.R. § 60.108a(d) of the Refinery NSPS and the Facility's Title V permit.

ENFORCEMENT

In response to a violation of the CAA or regulations promulgated pursuant to the Act, EPA may take any of the following actions, as authorized under Section 113(a)(3) of the Act:

- issue and order requiring compliance with the requirement or prohibition;
- issue an administrative penalty order, for penalties up to $25,000 per day per violation pursuant to Section 113(d) of the Act and adjust the maximum penalty provided by the Act up to $121,275 per day for each violation that occurs after November 2, 2015, and where penalties are assessed on or after December 27, 2023, in accordance with the Debt Collection Improvement Act, 31 U.S.C. § 3701 et seq. (DCIA) and the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19 promulgated pursuant to the DCIA; and
- bring a civil action pursuant to Section 113(b) of the Act for injunctive relief and/or civil penalties, and adjust the maximum penalty up to $57,617 per day in accordance with the DCIA and 40 C.F.R. Part 19.

EPA retains full authority to enforce the requirements of the Act, and nothing in this FOV shall be construed to limit that authority. Furthermore, the United States may seek criminal penalties and/or imprisonment of any person who knowingly violates the Act. In addition, under Section 306 of the Act, the regulations promulgated thereunder (40 C.F.R. Part 15), and Executive Order 11738, facilities to be utilized in federal contracts, grants, and loans must be in full compliance with the Act and all regulations promulgated pursuant thereto. Violation of the Act may result in the subject facility, or other facilities owned or operated by Respondent, being declared ineligible for participation in any federal contract, grant, or loan program.

PENALTY ASSESSMENT CRITERIA

Section 113(e)(1) of the Act states that if a penalty is assessed pursuant to Section 113 or Section 304(a) of the Act, the Administrator or the court, as appropriate, shall, in determining the

amount of a penalty to be assessed, take into consideration the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the payment by the violator of penalties previously assessed for the same violation, the economic benefit of non-compliance, the seriousness of the violation, and such other factors as justice may require.

Section 113(e)(2) of the Act allows the Administrator or the court, as appropriate, to assess a penalty for each day of the violation. For purposes of determining the number of the days of the violation, the days of violation shall be presumed to include the day the violation began and every day thereafter until Respondents establish that continuous compliance has been achieved. If Respondents can prove, by the preponderance of the evidence, that there were intervening days during which no violation occurred or that the violation was not continuous in nature, then EPA will reduce the penalty accordingly.

OPPORTUNITY FOR CONFERENCE

Respondent may request a conference with EPA concerning the violation(s) alleged in this FOV. This conference will enable Respondent to present evidence bearing on the finding of violations, the nature of the violations, and any efforts Respondent may have taken or it proposes to take to achieve compliance. Respondent may arrange to have legal counsel. A request for a conference must be made within ten (10) days of receipt of this FOV and must be confirmed in writing within five (5) days of making such request. The request for a conference, and other inquiries concerning this FOV, should be directed to:

Sara Amri
U.S. Environmental Protection Agency - Region 2
Office of Regional Counsel, Air Branch
290 Broadway - 16th Floor
New York, New York 10007-1866

(212) 637-3209
Amri.Sara@epa.gov

Notwithstanding the effective date of this FOV and opportunity for a conference discussed above, Respondent must comply with all applicable requirements of the Act.

Issued: 3/19/24, 2024 CHRISTINE ASH Digitally signed by CHRISTINE ASH Date: 2024.03.19 21:20:51 -04'00'

Christine Ash, Acting Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 2

To: Donald Susanen
Refinery Manager
Phillips 66 Company
1400 Park Ave
Linden, NJ 07036