

PSX2017LN02433

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JUN 23 2017
DOSH APPEALS

Stay Appeal
317944043

Assistant Director for DOSH
Attn: Appeal Program
P.O. Box 44604
Olympia, WA 98504-4604

RE: Appeal of Citation and Notice of Assessment (Inspection # 317944043)

STAY OF ABATEMENT REQUESTED

Dear Assistant Director:

By this letter, Phillips 66 Company appeals each Violation Item set forth in the Citation and Notice of Assessment ("Citation") issued in connection with Inspection # 317944043. The Citation was issued to Phillips 66 Company ("Phillips 66") by the Department of Labor and Industries ("Department") on June 1, 2017 and received by Phillips 66 representatives in Houston, Texas on June 5, 2017.

Request for Informal Conference:

As outlined below, Phillips 66 believes that the Citation is in error with regards to the facts applicable law and alleged severity. Phillips 66 respectfully requests that the Department reassume jurisdiction over this matter so the parties may hold an informal conference to cooperatively work to resolve this matter as soon as possible.

Appeal:

The remainder of this letter provides the information necessary to be included as part of filing this appeal. The inspection number is shown above and is # 317944043. Phillips 66 Company is the party filing the appeal. The following people will serve as the local point of contact:

Before July 1st, 2017
Phillips 66 Ferndale Refinery
Attn: Dan Toperosky, HSE Manager
P.O. Box 8, 3901 Unick Road
Ferndale, WA 98248
Phone: 360-384-7879
Fax: 360-384-8246

After July 1st, 2017
Phillips 66 Ferndale Refinery
Attn: John Andersen, HSE Manager
P.O. Box 8, 3901 Unick Road
Ferndale, WA 98248
Phone: 360-384-7879
Fax: 360-384-8246

6/23/17

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Phillips 66 workforce is represented by the following:

Mr. Ryan Meyhoff
Staff Representative
USW District 12, Sub District 3
24437 Russell Rd, Suite 205
Kent, WA 98032

The contact information for the contractor employee is:

Starcon International
10610 Fairmont Parkway
La Porte, TX 77571

As described in greater detail below, Phillips 66 is appealing each Violation Item and is requesting a stay of abatement for Items 1-3, 1-4 and 1-6.

Violation Item 1-1 – WAC 296-67-021(5)

The Department has alleged that Phillips 66 “did not implement safe work practices for the control of hazards for the employees performing rod out procedures to clear bleeder valve(s) in the Alkylation Unit” in an enumerated list of instances.

Phillips 66 appeals this allegation on the bases it did develop and implement safe work practices to provide for the control of hazards during operations when applicable. These practices included, but were not limited to: (1) requiring appropriate personal protective equipment (“PPE”) during the enclosed rod out procedure; (2) ensuring “equivalent level of safety” during the Phillips 66 variance procedure; (3) ensuring adequately trained employees conduct enclosed rod out work; and (4) adequately controlling the hazard by requiring the subject work to be conducted with an enclosed rod out tool. The incident in question occurred when a trained contractor improperly disconnected an enclosed rod out tool from an open drain valve in the Alkylation Unit. The incident was exacerbated by the fact that the contractor was not wearing the Phillips 66 proscribed PPE at the time. The incident was not caused by the failure to develop or implement safe work practices, but by a contractor’s failure to follow them.

Phillips 66 also appeals classification of the violation as “Serious.” There were safe work practices in place.

Phillips 66 requests that this violation and its associated penalties be withdrawn.

Violation Item 1-2 – WAC 296-67-029(2)(b)

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The Department has alleged that Phillips 66:

did not inform the contract employee of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process. The contractor employees clearing out bleeder valves using a rod out device on the HF Alky unit 17E-7 Acid Cooler were not informed of the known potential fire, explosion and toxic release hazards related to the contractor's work.

Phillips 66 appeals this allegation on the bases that it did inform its contractor of the known hazards related to its work and the process and its contractor was familiar with the risks associated with the Alkylation Unit and its work.

Phillips 66 also appeals classification of the violation as "Serious" as "lack of knowledge of hazards" was not a factor in the incident.

Phillips 66 requests that this violation and its associated penalties be withdrawn.

Violation Item 1-3 – WAC 296-67-037(4)(c)

The Department has alleged that Phillips 66:

did not perform inspection and testing with a frequency consistent with the manufacturer's recommendations that the inspection procedure MUST be completed before each use of the Lawton Industries Inc. Model 34-90-L12 Angle Worm Bleeder Cleaner rod out device. Failure to perform inspections and tests on process equipment used in the HF Alky Unit could result in the loss of containment or unwanted releases likely to cause illness and/or serious injury/death due to exposure, fire and/or explosion to hydrofluoric Acid (HF), Iso-Butane, Pentanes and Alkylates.

Phillips 66 appeals this allegation on the bases that this section is not applicable. An enclosed rod out tool is not process equipment. In any event, the enclosed rod out tool was inspected and the incident was not caused by a defect in the tool or by a lack of inspection, but when a trained contractor improperly disconnected an enclosed rod out tool from an open drain valve in the Alkylation Unit.

Phillips 66 also appeals classification of the violation as "Serious."

Phillips 66 requests that this violation and its associated penalties be withdrawn.

Additionally, Phillips 66 requests a stay of abatement as it believes that this specific allegation cannot be sustained, that Phillips 66 has met the required standard and the Phillips 66 should not be forced to take actions which are not required under Washington law. Phillips 66 believes that adequate testing and inspections were and are occurring and no additional abatement is necessary.

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Violation Item 1-4 – WAC 296-67-037(4)(d)

The Department has alleged that Phillips 66 “did not document each inspection and test for the rod out device used in the HF Alky Unit to clear out bleeder valve(s).”

Phillips 66 appeals this allegation on the same bases as Item 1-3 and that this violation is duplicative of Item 1-3.

Phillips 66 also appeals classification of the violation as “Serious” as noted in Item 1-3.

Phillips 66 requests that this violation and its associated penalties be withdrawn.

Additionally, Phillips 66 requests a stay of abatement for the same reasons noted in Item 1-3, above.

Violation Item 1-5 – WAC 296-803-50025

The Department has alleged that Phillips 66:

did not ensure that all potentially hazardous stored and residual energy is relieved, disconnected, restrained, or otherwise rendered safe. Employees were clearing out bleeder valves using a rod out device on the HF Alky unit 17E-7 Acid Cooler that contained HF Acid and flammables under pressure.

Phillips 66 appeals this allegation on the bases that it does comply with WAC 296-803-50025 where applicable. Here, the function of the enclosed rod out tool is to render stored and residual energy safe during a standard operator task.

Phillips 66 also appeals classification of the violation as “Serious.”

Phillips 66 requests that this violation and its associated penalties be withdrawn.

Violation Item 1-6 – WAC 296-803-30005

The Department has alleged that Phillips 66:

did not ensure that the 6” nozzle on the 17E-7 Acid Cooler can accept lockout devices. Employees that were clearing out bleeder valves using a rod out device in the HF Alky unit 17E-7 Acid Cooler containing HF Acid and flammables under pressure could not lock out potentially hazardous stored and residual energy.

Phillips 66 appeals this allegation on the bases that it does comply with WAC 296-803-30005 where applicable. Here, the function of the enclosed rod out tool is to render stored and residual energy safe.

Phillips 66 also appeals classification of the violation as “Serious.”

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Phillips 66 requests that this violation and its associated penalties be withdrawn.

Additionally, Phillips 66 requests a stay of abatement as it believes that this specific allegation cannot be sustained, that Phillips 66 has met the required standard and that Phillips 66 should not be forced to take actions which are not required under Washington law. Additionally, as noted above, if the process were actually covered under WAC, Phillips 66 believes that the process is adequate to achieve the statutory purpose.

Thank you for your attention to this matter. Phillips 66 remains committed to operating the Ferndale Refinery in a safe manner and we hope to have the opportunity to informally work with the Department on the subject matter to further that commitment.

Respectfully submitted,



Daniel R. Toperosky

HSE Manager, Phillip 66 Ferndale Refinery



FAX

RECEIVED
JUN 23 2017
DOSH APPEALS

FAX TO:

3609025581

FROM: MFD-FRN7004

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