



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 155
Seattle, WA 98101

ENFORCEMENT &
COMPLIANCE ASSURANCE
DIVISION

Reply To: 20-C04

RETURN RECEIPT REQUESTED

Mr. Todd Burke
Phillips 66 Portland Terminal
5528 Northwest Doane Avenue
Portland, Oregon 97210

Re: INFORMATION REQUEST Regarding Phillips 66 Portland Terminal, Portland, Oregon

Dear Mr. Burke:

The Clean Air Act, 42 U.S.C. §§ 7401 *et seq.* (CAA or “Act”), at Section 114, 42 U.S.C. § 7414, authorizes the U.S. Environmental Protection Agency (EPA) to require submittal of information, among other things, to assess compliance with the Act and regulations promulgated pursuant to the Act. In accordance with Section 114(a) of the Act, this Request for Information (“Information Request”) requires Phillips 66 Portland Terminal (“Phillips 66”) to submit information with respect to its facility, located at 5528 Northwest Doane Avenue in Portland, Oregon 97210 (“Facility”).

On June 21, 2022, EPA conducted an optical gas imaging survey of the gasoline and petroleum storage tanks at the Phillips 66 Facility. Based on the optical gas imaging of emissions from roof vents on Tanks 2915, 3411, 3413, 3409, 3408, 3407 and 4259, as observed by a Forward Looking InfraRed (FLIR) camera, EPA is concerned that the internal floating roofs are not being operated and maintained to adequately minimize or prevent volatile organic compound (VOC) and associated hazardous air pollutant (HAP) emissions from these tanks.

Pursuant to Section 114 of the Act, this Information Request requires Phillips 66 to submit all of the information described in Enclosure 1. Failure to submit the requested information is a violation of Section 114 of the Act and may result in an order to comply, an order for administrative penalties or a civil action for penalties and injunction requiring compliance pursuant to EPA’s enforcement authority provided in Section 113(a) of the Act.

In accordance with Section 113(c)(2)(A) of the Act, any person who knowingly makes any false statement, representation or certification or who omits material information from or knowingly alters, conceals or fails to file a response to this Information Request, may be subject to criminal action. Please ensure the Statement of Certification in Enclosure 2 is signed by a duly authorized officer or agent of Phillips 66 and returned with the response to this Information Request.

The information requested must be provided whether or not you regard part or all of it as a trade secret or confidential business information. Phillips 66 may assert a confidentiality claim covering part or all of the information, pursuant to Section 114 of the CAA, 42 U.S.C. § 7414 and 40 C.F.R. Part 2, Subpart B, by placing on or attaching to the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend or other suitable form of notice employing language such as “trade secret,”

“proprietary,” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by Phillips 66 and may be submitted separately to facilitate identification and handling by EPA. Information covered by such a claim will be disclosed by EPA only to the extent and by the procedures set forth in statutes and 40 C.F.R. Part 2, Subpart B. See 40 C.F.R. § 2.301 for additional rules governing certain information obtained under the CAA. Unless you make a claim at the time you submit the information in the manner described in 40 C.F.R. § 2.203(b), it may be made available to the public by EPA without further notice to you. 40 CFR 2.203; see also 41 Fed. Reg. 36902 (September 1, 1976). Please ensure to list and generally describe any CBI claims in the Notice Regarding Proprietary/Confidential Business Information (CBI) in Enclosure and returned with the response to this Information Request.

Accordingly, you are hereby required to submit the following information within **45 days** of your receipt of the request (except as specifically provided in Part C of Enclosure 1 of this Information Request, in which earlier response dates are required). If you anticipate being unable to fully respond to this Information Request by the specified date, you may request an extension within **15 days** of receipt of this request. Include a justification for your extension request. If timely submitted, EPA will consider your request and may extend the deadline.

Submit your response to this Information Request or request for extension to Elly Walters, EPA Region 10, Seattle, Washington at walters.elizabeth@epa.gov.

Responses may be provided in electronic format in Word, Excel, PDF or TIFF formats. We ask you to upload all required information to the secured web link to be shared with you or identify another method to transfer electronic files.

Thank you for your cooperation. If you have any questions regarding this Information Request or wish to request an extension, please contact Elly Walters, at (206) 553-6317 or walters.elizabeth@epa.gov.

Sincerely,

**MORGAN
JENCIUS**

Digitally signed by
MORGAN JENCIUS
Date: 2023.06.15
16:19:51 -07'00'

Morgan Jencius, Chief
Air and Land Enforcement Branch

Enclosures

ENCLOSURE 1
CAA INFORMATION REQUEST

Phillips 66 Portland Terminal

A. INSTRUCTIONS

1. Provide a separate narrative response to each question and subpart of a question in this Information Request. Mark each answer with the number of the question (and subpart, if applicable) to which it corresponds.
2. For each question, provide a copy of each document relied on or referred to in the preparation of the response or that contains information responsive to the question.
3. Indicate on each document produced in response to this Information Request, or in another reasonable manner, the number of the question to which it corresponds.
4. If requested information or documents are not known or are not available to you at the time of your response to this Information Request, but later become known or available to you, you must supplement your response to EPA. Moreover, if you find at any time after submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide EPA with a corrected response as soon as possible.
5. Provide the name, title, and business contact information for each person who prepared or was consulted in the preparation of your response. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained in this Information Request, or who may be able to provide additional responsive documents, provide the name, title and business contact information for each such person and the additional information or documents that they may have.
6. If you believe a question is not applicable to the Facility, explain the reason for that belief.
7. The information requested must be provided whether or not you regard part or all of it as a trade secret or confidential business information. You may assert a confidentiality claim covering part or all of the information submitted, pursuant to Section 114 of the Clean Air Act (CAA), 42 U.S.C. § 7414 and 40 C.F.R. Part 2, by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend or other suitable form of notice employing language such as “trade secret,” “proprietary,” “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by EPA.
8. If you claim all or part of your response as a trade secret, proprietary or company confidential, please also return with your response a complete substantiation of your claim. Enclosure 3 contains the information you must provide in order to substantiate your claim. If you require additional time to substantiate your confidentiality claim, contact the individuals listed in the cover letter. Information covered by such a claim will be disclosed by EPA only to the extent and by the procedures set forth in statutes and 40 C.F.R. Part 2, Subpart B. See 40 C.F.R. § 2.301 for additional rules governing certain information obtained under the CAA. Note that certain categories of information, including “emission data,” are not entitled to confidential treatment. Unless you make a claim at the time you submit the information in the manner described in 40 C.F.R. § 2.203(b), it may be made available to the public by EPA without further notice to you. See also 41 Fed. Reg. 36902 (Sept. 1, 1976).

B. DEFINITIONS

All terms used in this Information Request have their ordinary meaning unless such terms are defined in the Act, 42 U.S.C. § 7401 *et seq.*, or other CAA implementing regulations. Where reference is made to the EPA regulatory provisions, you should also apply the applicable federally approved state provisions when appropriate. Additional definitional clarification is specified below.

1. The terms “you” or “Respondent” mean Phillips 66, and its subsidiaries, officers, directors, managers, partners, employees, contractors and agents, as applicable.
2. “Facility” means the Phillips 66 Portland Terminal owned or operated by Respondent located at 5528 Northwest Doane Avenue in Portland, Oregon 97210.
3. “Document” means any object that records, stores or presents information and includes, without limitation, email, writings, memoranda, contracts, agreements, records or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, storage device or in hardcopy, including any form or format of these. If in computer format or memory, each such document shall be provided in translation to a form useable and readable by EPA, with all necessary documentation and support. Include all attachments to or enclosures with any responsive document.

C. INFORMATION REQUEST

Provide the following information for the Facility. Except as specifically described below in Part C of this Information Request, provide the following information regarding the Facility within **forty-five (45) days** from the receipt of this Information Request. Unless otherwise stated, this information shall be submitted in Microsoft Excel, Microsoft Word or optical character recognition (OCR) Adobe Acrobat PDF format depending on the information request.

1. Phillips 66 shall conduct an engineering investigation into the integrity and adequacy of the design and installation of the internal floating roof (IFR) for Tanks 2915, 3411, 3413, 3409, 3408, 3407, and 4259, which all store gasoline or did store gasoline during the Inspection. The investigations for Tanks 2915, 3411, 3413, 3409, 3408, 3407, and 4259 shall include, but are not limited to, the following:
 - a. Phillips 66 shall provide EPA with a description of any inspections and/or maintenance conducted on each tank’s IFR on or after June 21, 2022 (the date of EPA’s inspection) through Phillips 66’s receipt of this Information Request, or already scheduled to be conducted thereafter. Any information shall be provided no later than **fifteen (15) days** from the receipt of this Information Request. If Phillips 66 believes this information meets any part of the requirements of (C)(1)(b) and/or (d) of this Information Request, simultaneously provide a justification and supporting information along with any data.
 - b. Phillips 66 shall conduct a visual inspection of each IFR and its primary and secondary seals to the extent they are visible/accessible through manway and roof hatches on the fixed roof of each tank (“IFR Inspection”). The IFR Inspection shall be conducted when the tank is filled to such a level that the entire IFR roof is visible. The IFR Inspection shall include, but not be limited to, identifying any instances of the internal floating roof not resting on the surface of the liquid inside the storage vessel, any liquid

that has accumulated on the roof, any seal that has become detached, any holes or tears in a seal and any roof component that is visibly open, damaged or leaking.

- c. Phillips 66 shall submit a report detailing each IFR Inspection date, tank fill level during each IFR Inspection, IFR Inspection start and stop times and findings from each IFR Inspection. The findings shall include the results of the IFR Inspection as described in (1)(b) above. Provide photos, if possible, of any open, damaged, or leaking roof components identified.
- d. Phillips 66 shall measure the Lower Explosive Limit (LEL) in the headspace between the IFR and the fixed roof for Tanks 2915, 3411, 3413, 3409, 3408, 3407, and 4259, as outlined below:
 - i. The tests shall be conducted by lowering an LEL meter with data logging capability within three feet of the top of each internal floating roof.
 - ii. The LEL meter shall be calibrated with methane prior to use and the date and time shall be set to local time.
 - iii. LEL measurements shall be conducted when the wind speed is less than 5 miles per hour.
 - iv. Data logging of the LEL measurements shall be in 15-second intervals and measurements shall be done for 30 minutes.
 - v. The IFR shall not be in motion and the product temperature shall be recorded during sampling.
- e. Phillips 66 shall provide EPA with at least **ten (10) days** advanced notice of the commencement of the LEL testing. With the advanced notice of testing, Phillips 66 shall provide a summary description of the procedures to be used for LEL meter calibration, LEL measurement procedures, data collection and processing procedures, personnel involved and LEL meter make and model to be used, including the gasoline LEL correction factors specific to the LEL meter to be used. If wind conditions are not suitable on the planned test date, Phillips 66 shall confer with EPA, as soon as practicable, on a revised test date based on the weather forecast.
- f. Phillips 66 shall submit a report documenting the procedures, conditions, and results of the LEL testing, including dates and times of the testing, tank fill level during testing, weather conditions during testing (such as wind speed and direction, ambient temperature, precipitation conditions), LEL meter calibration procedures used, LEL meter location during testing, all supporting data (including the original LEL data log in Excel or its native electronic format) and any other measurements and required analysis.

ENCLOSURE 2
STATEMENT OF CERTIFICATION

Phillips 66 Portland Terminal
5528 Northwest Doane Avenue, Portland OR 97210

INFORMATION REQUEST
STATEMENT OF CERTIFICATION

I certify that the enclosed responses to EPA's Information Request issued to Phillips 66 Portland Terminal are true, accurate and complete. I certify that the portions of these responses which I did not personally prepare were prepared by persons acting on behalf of Phillips 66 Portland Terminal under my supervision and at my instruction and that the information provided is true, accurate and complete. I am aware that there are significant penalties for submitting false information in response to this Information Request, including the possibility of fine and imprisonment.

Signature

Printed Name

Title

Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

NOTICE REGARDING PROPRIETARY/CONFIDENTIAL BUSINESS INFORMATION (CBI) SUBMITTED TO OR COLLECTED BY EPA IN CONNECTION WITH INSPECTIONS AND OTHER COMPLIANCE MONITORING

For information submitted to or obtained by the U.S. Environmental Protection Agency (EPA or Agency) during or after an inspection (or other compliance monitoring), regulated entities (e.g., businesses, facilities, etc.) may assert a confidentiality claim on information that it believes is a trade secret or as privileged or confidential commercial or financial information, which is protected under Exemption 4 of the Freedom of Information Act (FOIA) at 5 U.S.C. § 552(b)(4). This type of information is commonly referred to as CBI or proprietary business information (PBI). For consistency purposes, the term CBI will be used within this document. This document provides instructions for asserting a CBI claim on the business information that you provided to EPA during or after its inspection.¹

EPA is giving you this Notice so that you have the opportunity to request confidential treatment of your business information in order to ensure that EPA properly handles your business' CBI claims. If your business believes that any information that EPA will be viewing or collecting during the inspection of your business may be CBI, EPA requests that a representative of your business who has the authority to claim that information as CBI, read, fill out and sign this Notice. You must read and follow all instructions for properly giving EPA notice of your CBI claim. If you have questions about this Notice, you or a representative of your business with the authority to assert the CBI claim may request clarification from the EPA inspector or call the contact name that the inspector will give you with this Notice. EPA has also created a Questions and Answers document for this Notice that you may find helpful and is available at: <https://www.epa.gov/compliance/cbi-notice-information-collected-during-epa-inspections-or-other-compliance-monitoring>

If a CBI claim does not accompany the information submitted to EPA, then the Agency may make the information available to the public without further notice. For example, the Agency may make inspection reports available to the public, including through this website at <https://echo.epa.gov>. Also, EPA may be required by law to release the information to the public. For example, the FOIA requires the disclosure of Agency records that have been requested by a FOIA request unless that information falls within a FOIA exemption. EPA does not release CBI to the public in response to a FOIA request.²

(A) Procedures to claim confidential treatment for information provided to EPA.

(1) You may assert a CBI claim covering part or all of the information submitted to or obtained by EPA: (a) at the time of the inspection; (b) within 10-calendar days³ following the inspection for information submitted to or

¹ If you are submitting potential CBI under the Toxic Substances Control Act (TSCA), you cannot use this Notice. CBI claims under TSCA must be made using EPA's TSCA CBI Notice. For further information see <https://www.epa.gov/tsca-cbi/making-cbi-claims-tsca-submissions#certification>.

² Information claimed as CBI may be disclosed to the public only to the extent of, and by the means of, the procedures set forth in 40 CFR Part 2, Subpart B.

³ The 10-calendar day period begins on the day after an inspection concludes. For example, if the inspection of your business commenced on Monday and concluded on Tuesday, the 10-calendar day period begins on Wednesday. If the 10-calendar day period ends on a weekend day or a holiday your claim must be postmarked or EPA contacted by telephone by the next business day. In certain instances EPA may find it necessary to disclose the information obtained during the inspection and not claimed as CBI before the 10-calendar day period expires, and as such, EPA may provide the affected business less than 10-calendar days following an inspection to assert a CBI claim.

obtained by EPA during the inspection; or (c) at the time of submittal, if you submit information requested before or after the inspection.

(2) If you fail to assert a CBI claim before an inspection, during an inspection, or within the 10-calendar day period following the inspection, the information may be made available to the public by EPA without further notice to the business.

(3) EPA's CBI regulations are at 40 C.F.R. Part 2, Subpart B (sections 2.201-2.311). See <https://www.ecfr.gov>.

(B) Method and time of asserting business confidentiality claim.

A business that is submitting information to EPA may assert a business confidentiality claim by highlighting, bracketing, boxing, or circling the information claimed as CBI, and marking the page or document with language such as *trade secret, proprietary, company confidential, PBI, or CBI*. You may also provide a "sanitized" or non-confidential version of the document, with all CBI removed to facilitate identification and handling of CBI by EPA.⁴ If your business requests confidential treatment only until a certain date or until a certain event happens, then please indicate this at the time your business makes its CBI claim.

The Notice includes a box (page 4) that you or the inspector may use to list and generally describe the CBI claims; add an attachment if more space is needed.

(C) Substantiation of business confidentiality claim.

If you assert a CBI claim, such information shall be protected from disclosure unless EPA or a federal court has determined that the information is not entitled to confidential treatment. If EPA reviews your CBI claim(s), then EPA may send a notice to your business and ask you to submit additional information to substantiate the CBI claim(s).

(D) Certain information not entitled to confidential treatment.

Information that is publicly available at the time of inspection, or that is required to be disclosed to the public by law, is not entitled to confidential treatment and should not be claimed as CBI. While this is not a comprehensive list, the following types of information generally are not protected as CBI: information that is publicly available; information that was submitted to a federal, tribal, state or local government that was not claimed as CBI; information prohibited by law as CBI, such as effluent data, emissions data, or health and safety data in health and safety studies. If a business makes a claim on any such information, EPA may make a determination under 40 C.F.R. § 2.204(d)(2) that the information is not entitled to confidential treatment. See Attachment A, Questions and Answers about this Notice, for some examples of what is and is not entitled to confidential treatment.

⁴ You should indicate, but not black out, white out or remove, all CBI in the documents you submit to EPA so that the CBI remains visible for EPA to read. Only marking the document or page as confidential or the like is not sufficient to assert a proper CBI claim. In addition to submitting the document with legible CBI, you may also submit a copy of the document with the CBI blacked out or removed, but you may not submit only a document with the CBI blacked out or removed (a "sanitized copy."). EPA treats the sanitized copy as a publicly available document.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 PROPRIETARY/CONFIDENTIAL BUSINESS INFORMATION NOTICE**

Facility:	
Facility Address:	
Facility Representative with authority to make a CBI claim (print name & title):	Date:
	Signature:
	Phone/email:

EPA Inspector (print): Address: [mailing or courier address appropriate for inspector and/or inspector's Document Control Officer]	Date:
	Phone:
	Email:

	I have received this Notice and DO NOT make any CBI claim on the documents and information I have provided to EPA at this time.
<p><i>I understand that, within 10-calendar days of the date of this inspection, if I determine that any of the documents and information I provided to EPA are CBI, I may send a written notice to the EPA inspector (address and email listed above) identifying the specific information I wish to claim as CBI.</i></p> <p><i>I further understand that if no CBI claim was made at the time of the inspection or within the 10-calendar day period following this inspection, the information may be made available to the public by EPA without further notice to the business. See 40 C.F.R. 2.203.</i></p>	

	I have received this Notice and DO make a CBI claim regarding the documents and information listed below that I have provided to EPA.
<p><i>In making this CBI claim for the information and documents listed below, I represent that to the best of my knowledge and belief: (a) My business has taken reasonable measures to protect the confidentiality of the information; (b) I have determined that the information is not required to be disclosed or otherwise made available to the public under any other Federal law; and (c) I have a reasonable basis to believe that the information is not publicly available or readily discoverable through reverse engineering. I understand that I may be required to substantiate this claim on receipt of a written request by EPA.</i></p> <p><i>Any knowing and willful materially false, fictitious, or fraudulent statement or representation is subject to criminal penalty pursuant to 18 U.S.C. § 1001.</i></p>	
<p>Part B of this Notice explained how to identify information claimed as CBI. You or the inspector may use this box to list and generally describe any CBI claims.</p> <p>Example: Internal layout of facility.</p>	

