



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 5**  
**77 WEST JACKSON BOULEVARD**  
**CHICAGO, IL 60604-3590**

**February 3, 2022**

**VIA E-MAIL**  
**DELIVERY RECEIPT REQUESTED**

Donna Carvalho, Senior Legal Counsel  
Phillips 66 Company  
900 S Central Ave  
Roxana, IL

Email: [Donna.H.Carvalho@p66.com](mailto:Donna.H.Carvalho@p66.com)

Dear Donna Carvalho:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves the Finding of Violation issued to Phillips 66 on July 2, 2021, docket no. EPA-5-21-IL-09. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on February 3, 2022.

Pursuant to paragraph 23 of the CAFO, Phillips 66 Company must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to Mary McAuliffe, [mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov), or 312-886-6237.

Sincerely,

**Brian  
Dickens**

Digitally signed by Brian  
Dickens  
Date: 2022.01.19  
15:32:21 -06'00'

Brian Dickens, Supervisor  
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Regional Hearing Clerk/via electronic mail  
[R5hearingcleark@epa.gov](mailto:R5hearingcleark@epa.gov)

Mary McAuliffe/via electronic mail  
[mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov)

William Wagner/via electronic mail  
[wagner.william@epa.gov](mailto:wagner.william@epa.gov)

Kent Mohr, Manager/via electronic mail  
Compliance Section  
Bureau of Air  
Illinois Environmental Protection Agency  
[Kent.Mohr@Illinois.gov](mailto:Kent.Mohr@Illinois.gov)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No.</b> CAA-05-2022-0005
	)	
<b>Phillips 66 Company</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Roxanna, Illinois,</b>	)	<b>Under Section 113(d) of the Clean Air Act,</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
<hr style="border: 1px solid black;"/>	)	

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Phillips 66 Company, a corporation doing business in Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

### **Statutory and Regulatory Background**

9. The CAA, as amended by the Clean Air Act Amendments of 1990, provides in pertinent part at Section 112(q)(1), that “[a]ny standard under this section in effect before the date of enactment of the Clean Air Act Amendments of 1990 shall remain in force and effect after such date unless modified as provided in this section . . .” The Clean Air Act Amendments of 1990 were enacted on November 15, 1990.

10. Under Section 112 of the CAA, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Emissions from Benzene Transfer Operations on March 7, 1990, and codified the NESHAP at 40 C.F.R. Part 61, Subpart BB, §§ 61.300 through 61.306. *See* 55 Fed. Reg. 8292. The owner or operator of an existing affected facility was required to comply with the requirements of 40 C.F.R. §§ 61.300 through 61.306 by July 23, 1991.

11. The NESHAP for Benzene Emissions from Benzene Transfer Operations applies to the total of all loading racks at which benzene is loaded into tank trucks, railcars, or marine vessels at each benzene production facility and each bulk terminal.

12. The NESHAP, at 40 C.F.R. § 61.302(b), requires the owner or operator of each applicable benzene production facility and each applicable bulk terminal to install a control

device and reduce benzene emissions routed to the atmosphere through the control device by 98 weight percent.

13. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$48,762 per day of violation up to a total of \$390,092 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

14. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

15. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

#### **Factual Allegations and Alleged Violations**

16. Phillips 66 owns and operates a petroleum refinery at 900 S Central Ave, Roxana, Illinois (the Facility).

17. At the Facility, Phillips 66 operates loading racks in Hartford, Illinois, at which benzene is loaded into marine vessels.

18. Phillips 66 is subject to the NESHAP for Benzene Emissions From Benzene Transfer Operations at 40 C.F.R. Part 61, Subpart BB.

19. On July 2, 2021, EPA issued to Phillips 66 a finding of violation alleging that Phillips 66 violated the NESHAP for Benzene Emissions From Benzene Transfer Operations by

failing to reduce benzene emissions routed to the atmosphere through the control device by 98 weight percent in violation of 40 C.F.R. § 61.302(b).

20. On July 14, 2021, representatives of Phillips 66 and EPA discussed the July 2, 2021 finding of violation.

21. Phillips 66 violated the NESHAP for Benzene Emissions From Benzene Transfer Operations at 40 C.F.R. § 61.302(b) for 92 tow loadings between October 1, 2016 and April 30, 2020.

### **Civil Penalty**

22. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$125,865.

23. Within 30 days after the effective date of this CAFO, Respondent must pay a \$125,865 civil penalty by electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045

Field Tag 4200 of the Fedwire message should read:  
“D68010727 Environmental Protection Agency”

In the comment or description field of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.

24. Respondent must send a notice of payment that states Respondent’s name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Air Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Region 5  
[r5airenforcement@epa.gov](mailto:r5airenforcement@epa.gov)

Mary McAuliffe  
William Wagner  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
[mcauliffe.mary@epa.gov](mailto:mcauliffe.mary@epa.gov)  
[wagner.william@epa.gov](mailto:wagner.william@epa.gov)

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

25. This civil penalty is not deductible for federal tax purposes.

26. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

27. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

### General Provisions

28. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: mcauliffe.mary@epa.gov and wagner.william@epa.gov (for Complainant), and donna.h.carvalho@p66.com and thomas.r.morgan@p66.com (for Respondent).

29. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

30. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

31. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 29, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

32. Respondent certifies that it is complying fully with 40 C.F.R. § 61.302(b).

33. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

34. The terms of this CAFO bind Respondent, its successors and assigns.

35. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

36. Each party agrees to bear its own costs and attorney's fees in this action.

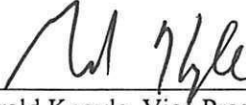
37. This CAFO constitutes the entire agreement between the parties.



**In the Matter of: Phillips 66 Company**

**Phillips 66 Company, Respondent**

6/14/2022  
Date

  
Gerald Knoyle, Vice President *OKC*  
Phillips 66 Company, Wood River Refinery

**In the Matter of: Phillips 66 Company**

**United States Environmental Protection Agency, Complainant**

**MICHAEL  
HARRIS**

 Digitally signed by MICHAEL  
HARRIS  
Date: 2022.01.28 13:43:28 -06'00'

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order  
In the Matter of: Phillips 66 Company  
Docket No. CAA-05-2022-0005**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

\_\_\_\_\_  
Date

**ANN COYLE** Digitally signed by ANN  
COYLE  
Date: 2022.02.02 15:35:48  
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\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5

Consent Agreement and Final Order  
In the matter of: Enf\_Phillips66 Wood River\_IL\_22\_CAF0  
Docket Number: CAA-05-2022-0005

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2022-0005, which was filed on February 3, 2022, in the following manner to the following addressees:

\*Copy by E-mail to Respondent: Donna Carvalho/via electronic mail  
Donna.H.Carvalho@p66.com

Copy by E-mail to Attorney for Complainant: Mary McAuliffe/via electronic mail  
mcauliffe.mary@epa.gov

William Wagner/via electronic mail  
wagner.william@epa.gov

Copy by E-mail to Attorney for Respondent: Donna Carvalho/via electronic mail  
Donna.H.Carvalho@p66.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle/via electronic mail  
coyle.ann@epa.gov

Dated: \_\_\_\_\_

\_\_\_\_\_  
LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5