UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

September 28, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7010 1060 0002 1872 0481

Mr. Danny White
Compliance Contact
BP Refinery
2401 5th Avenue South
Texas City, TX 77590

Re: Clean Air Act Section 114 Information Request
BP Refinery, Texas City, TX

Dear Mr. White:

Enclosed is an Information Request (Request) issued to BP Refinery under the authority of Section 114 of the Clean Air Act (CAA). The purpose of this Request is to obtain information regarding Flare Combustion Efficiency at the BP Refinery in Texas City, Texas, from January 1, 2006, to the present. The information will be used to determine whether BP Refinery in Texas City, Texas is in compliance with the provisions of the CAA.

Please provide the information requested within thirty (30) working days of your receipt of this letter to Mr. David Eppler, at the above address. If you have any questions, need to request an extension, or wish to schedule a meeting to discuss this Request, please contact Mr. Eppler, Enforcement Officer, at (214) 665-6529.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: Mr. Michael de la Cruz (MC 149)
Texas Commission on Environmental Quality

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INFORMATION REQUEST
BP REFINERY, TEXAS CITY, TEXAS

The U.S. Environmental Protection Agency (EPA) Region 6 is issuing this Information Request (Request) to BP Refinery pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), for the purpose of determining compliance with the CAA. Section 114(a) authorizes the Administrator of EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Compliance Assurance and Enforcement Division, EPA, Region 6. This Request pertains to the BP Refinery located in Texas City, Texas.

The information requested must be submitted whether or not you regard part or all of it a trade secret or confidential business information. You may, if you desire, assert a business confidentiality claim on all or part of the information submitted. You must specify the page, paragraph, and sentence when identifying the information subject to your claim. Appendix A specifies the assertion and substantiation requirements for business confidentiality claims. Any information subsequently determined to constitute a trade secret will be protected under 18 U.S.C. §1905. Unless you make a claim at the time that you submit the information, it may be made available to the public by EPA without further notice to you. You should read 40 C.F.R. Part 2 carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of a claim. Emission data is exempt from claims of confidentiality under Section 114 of the CAA, and the emissions data that you provide may be made available to the public. Information subject to a business confidentiality claim is available to the public only to the extent allowed under 40 C.F.R. Part 2, Subpart B. Failure to assert a business confidentiality claim makes all submitted information available to the public without further notice.

You must submit all information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the CAA, and 18 U.S.C. §§ 1001 and 1341.

We may use any information submitted in response to this Request in an administrative, civil, or criminal action.

This Request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

All information responsive to this Request should be sent to the following:

Mr. David Eppler
Toxics Enforcement Section (6EN-AT)
Compliance Assurance and Enforcement Division
U.S. EPA – Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

I. INSTRUCTIONS

1. If information or documents not known or not available to you as of the date of submission of a response to this Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. There are significant penalties for submitting false information, including the possibility of fine or imprisonment.

2. For each document produced in response to this Request, indicate on the document, or in some other reasonable manner, the number of the question to which it responds. Please submit all information for each question in a logically sequenced, bound format.

3. Please provide a separate response to each question and subpart of a question set forth in this Request and precede each answer with the number of question to which it corresponds.

4. For each question, identify each person responding to any question contained in this Request on your behalf, as well as each person consulted in the preparation of a response.

5. For each question, identify each document consulted, examined, or referred to in the preparation of the response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this Request the number of the question to which it corresponds.

6. Failure to submit requested information in accordance with statutory or regulatory requirements constitutes a violation of the CAA. As such EPA has the authority under Section 113 of the Act to pursue civil penalties.

II. DEFINITIONS

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including documentation solely in electronic form, including by way of illustration and not by way of imitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations, including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra office communications, photo stat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

2. The term BP Refinery includes any officer, director, agent, or employee of BP Refinery, including any merged, consolidated, or acquired predecessor or parent, subsidiary, division, or affiliate thereof.

3. The terms "person" or "persons" shall have the meaning set forth in Section 302 (e) of the CAA, 42 U.S.C. § 7602 (e), and includes 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.

4. The terms "you" or "yours," as used in each of the questions set forth in the attached Section 114 letter, refers to, and shall mean, the company or corporation with which each addressee of the attached Section 114 letter is affiliated including its subsidiaries, division, affiliates, predecessors, successors, assigns, and its former and present officers, directors, agents, employees, representatives, attorneys, consultants, accountants, and all other persons acting on its behalf.

5. All terms used in this Request will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. § 7401 et seq., and the implementing regulations.

6. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

III. QUESTIONS

Flare Combustion Efficiency

BP Refinery must provide the following information about its Facility located in Texas City, Texas within thirty (30) days of its receipt of this request. EPA requests that the requested non-narrative information be provided in spreadsheet format, preferably in Excel.

1. For each day beginning on January 1, 2006, until the date of your receipt of this request, list the periods of time (date, start time, and end time) that combustible material was routed to the flares at the Texas City, Texas facility (i.e., "venting periods") designated as Refinery Flare #3 and the Ultra Cracker Flare, and any other flare[1] to which combustible materials were routed following the Incident.

2. For each venting period listed in response to paragraph 1 above, provide the average heating value, in BTU/scf of the stream that was vented to each facility flare. The averaging time shall not be greater than one hour. Provide a narrative explanation and example calculations describing how you arrived at your response.

3. For each venting period listed in response to paragraph 1 above, provide the average mass flow rate of all material, combustible and non-combustible, in lb/hr, that was vented to each facility flare. The averaging time shall be no more than one hour. Provide a narrative explanation and example calculations describing how you arrived at your response.

4. For each venting period listed in response to paragraph 1 above, provide the average rate at which steam and/or air was being added to each facility flare, in lb/hr for steam and/or scf/hr for air, at all locations on the flare (i.e., the sum of

[1] For the purpose of this request for information, "flare" should be broadly defined as any open combustion unit (i.e., lacking an enclosed combustion chamber) whose combustion air is provided by uncontrolled ambient air around the flame, and that is used as a control or safety device. A flare may be equipped with a radiant heat shield (with or without a refractory lining), but is not equipped with a flame air control damping system to control the air/fuel mixture. In addition, a flare may also use auxiliary fuel. The combustion flame may be elevated or at ground level.

seal, upper, lower, winterizing, etc.) during each venting period. The averaging time shall not be greater than one hour. Provide a narrative explanation and example calculations, if appropriate, describing how you arrived at your response.

5. For each venting period listed in response to paragraph 1 of this section, provide the average steam-to-vent gas or air-to-vent gas ratio (lb steam/lb vent gas or scf of air/lb of vent gas) during any release to each facility flare. The averaging time shall be no more than one hour. Provide a narrative explanation and example calculations, if appropriate, describing how you arrived at your response.

6. Provide a one-hour average of the concentration of each constituent in the vent stream during venting periods for the dates beginning one month prior to your receipt of this request, until the date of receipt of your request.

7. Provide a list of the primary constituents in the vent stream released to each flare for venting periods since January 1, 2006, and an estimated range of each constituent's concentration. Except for the period specified in paragraph 6, you need not determine the exact concentration of all compounds for each period of time, but only the most prominent compounds and an approximate range of concentration.

8. For each facility flare, provide the minimum steam or air addition rate, in lb/hr for steam and/or scf/hr for air, at all locations on the flare (seal, upper and lower). To the extent that the minimum steam or air addition rate changes on a seasonal basis, state the minimum rate for each season and the time periods during which each season's minimum rate applies.

9. Provide copies of any and all documents in your possession, custody, or control that prescribe or recommend the amount of steam or air to be added to each facility flare. Provide a copy of the entire document if within the document it states the maximum steam or air rate, minimum steam or air rate, steam or air addition rate associated with a vent scenario, general steam-to-vent gas or air-to-organic gas/vent gas ratio, or any other reference to steam addition.

10. For each facility flare, state with specificity which, if any, Federal and/or state regulations regulate/apply to each flare. If any facility flare is listed in a permit issued under Federal and/or state regulations, provide an electronic copy, preferably in a "PDF" format, of each currently effective permit.

11. For each facility flare, state whether the flare is configured to receive gases/vapors from a pressure relief device, which is a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. Also state whether the flare and its associated closed vent system is used as the method of compliance with any Federal leak detection and repair (LDAR) provision, including but not limited to 40 C.F.R. § 60.482-4(c), or 40 C.F.R. § 63.165(c).

BP REFINERY, TEXAS CITY, TEXAS

Appendix A

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering all or part of the information requested, as provided in 40 C.F.R. § 2.203(b). To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document over which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a legend to indicate the intent to claim confidentiality. The stamped or typed legend, or other suitable form of notice, should employ language such as "trade secret" or "proprietary" or "company confidential" and indicate a date if any when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by the U.S. Environmental Protection Agency only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Clean Air Act (the Act), and 40 C.F.R. Part 2. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as "Personal Privacy Information" given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. § 2.208 which provides in part that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking you to substantiate fully your CBI claim. If you receive such a letter, you must provide EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you

consider confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being subject to CBI, you must answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?

3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, <u>explain with specificity</u> why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant.

> Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air-
>
> Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;
>
> Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and;
>
> A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Emission data includes, but is not limited to, service records stating the amount of refrigerant added to a unit or reclaimed from a unit.

If you receive a request for a substantiation letter from the EPA, <u>you bear the burden of substantiating your confidentiality claim</u>. Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), you must bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent allowed by, and by means of the procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.