



REGION 9

SAN FRANCISCO, CA 94105

ENFORCEMENT & COMPLIANCE ASSURANCE DIVISION

VIA ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

Corbin Hennick
Specialist – Permitting Compliance SR I
Product Pipelines
Kinder Morgan, Inc.
corbin_hennick@kindermorgan.com

November 19, 2024

IN THE MATTER OF: **SFPP, LP – Kinder Morgan Phoenix Terminal**
 49 North 53rd Avenue
 Phoenix, Arizona 85043

Request for Information Under § 114(a) of the Clean Air Act, 42 U.S.C. § 7414(a)

The United States Environmental Protection Agency (“EPA”) is issuing this information request to determine the compliance status of Kinder Morgan, Inc.’s SFPP, LP Phoenix Terminal (“Facility”). EPA is requesting information to determine compliance with the Clean Air Act, 42 U.S.C. §§ 7401-7671q (“CAA” or “the Act”) for the Facility in Maricopa County.

Specifically, Kinder Morgan operates equipment that may be subject to federally enforceable requirements of Title V of the Clean Air Act and the federally enforceable requirements of the Maricopa County portion of the Arizona State Implementation Plan.

Under Section 114(a) of the CAA, the Administrator of EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with regulations promulgated under the CAA. The Administrator has delegated this authority to the undersigned Manager of Region 9’s Air Enforcement Office, Enforcement and Compliance Assurance Division.

Kinder Morgan is hereby required to provide EPA with information requested in Appendix D, within fifteen (15) calendar days after receipt of this letter. In responding to this request, Kinder Morgan shall use the instructions provided in Appendix A and provide the certification in Appendix C.

If Kinder Morgan anticipates that it will not be able to respond fully to this request within the time period specified, Kinder Morgan must submit a sworn declaration by a responsible corporate official within fifteen (15) calendar days after receipt of this information request specifying what information will be provided by the allotted deadline, describing the efforts that have been or are being undertaken to obtain the remaining other responsive information, and providing a detailed schedule of when such other responsive information will be provided. Upon receipt and based upon such declaration, EPA may extend the time in which to respond to this information request.

If Kinder Morgan seeks to withhold any document(s) based on a claim of attorney-client communications privilege or the attorney work product doctrine in its response to this information request, Kinder Morgan shall provide with its response a privilege log for each document containing the following information: (i) the date, author(s), every individual to whom the document was originally sent, every individual who subsequently acquired the document, the purpose for which the document was sent to or obtained by those individuals, and the employment titles of the authors and recipients; (ii) the subject matter of the document; (iii) the privilege claimed for the document and all facts supporting the claim of privilege; (iv) the primary purpose(s), including the business purposes, for which the document was made; (v) the question(s) in this information request to which the document is responsive; and (vi) all facts contained in the document that are responsive to a question in this information request.

The responsive information shall be accompanied by a cover letter sent in electronic form via email to Erika Pauley at pauley.erika@epa.gov or by a file transfer program ("FTP"). Upon request to pauley.erika@epa.gov, EPA can provide a secure link to an FTP site in order to submit responses to this information request.

Please be advised that under Section 113(a) of the Act, 42 U.S.C. § 7413(a), failure to provide the information and documents required by this letter may result in an order requiring compliance, an order assessing an administrative penalty, or a civil action for appropriate relief. Section 113(b) of the Act, 42 U.S.C. § 7413(b), provides for the assessment of a civil penalty, which has been adjusted for inflation to not more than \$121,275 per day, for each violation of the Act. See 40 C.F.R. § 19.4 (for violations that occurred after November 2, 2015, where penalties are assessed on or after January 6, 2023). In addition, Section 113(c) of the Act, 42 U.S.C. § 7413(c), provides criminal penalties for knowingly making any false material statement in, or omitting material information from, any report required under the Act.

You must submit all requested information under an authorized signature with the following certification (provided in Appendix C):

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 Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

You may assert a confidential business information ("CBI") claim on behalf of Kinder Morgan covering part or all of the information provided to EPA in response to this letter. Any such CBI claim must conform to the requirements set forth in 40 C.F.R. Part 2, particularly 40 C.F.R. § 2.203, and contain supporting documentary evidence. In addition, any such claim must be substantiated in accordance with 40 C.F.R. § 2.204(e)(4).

Please specify by page, paragraph and sentence when identifying information from a document where you make a CBI claim. Where your claim does not include all information on a page, please attach a copy of each such page with brackets around the text you claim to be CBI. If a page, document, or group or class of documents claimed by you to be CBI contains a significant amount of information which our Regional Counsel determines is not CBI, your CBI claim regarding that page, document, or group or class of documents may be denied.

You are advised that certain information may be made available to the public pursuant to Section 114(c) of the Act, 42 U.S.C. § 7414(c), and 40 C.F.R. § 2.301, notwithstanding a claim that such information is entitled to confidential treatment. Please note that emission data provided pursuant to Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. Emission data is defined at 40 C.F.R. § 2.301(a)(2). If no claim of confidentiality is received with your reply, the information may be made available to the public without notice to Kinder Morgan.

This information request is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not the "collection of information" within the meaning of 44 U.S.C. §§ 3502(3) and 3518(c)(1), since it is being issued during the conduct of an investigation involving the EPA against specific individuals or entities. See also 5 C.F.R. § 1320.4.

Any questions concerning this Information Request should be directed to Erika Pauley at (213) 244-1818 or pauley.erika@epa.gov or have your attorney contact Priyam Desai in the Office of Regional Counsel at (415) 972-3276 or desai.priyam@epa.gov.

**ROSHNI
BRAHMBHATT**

Digitally signed by ROSHNI
BRAHMBHATT
Date: 2024.11.20 16:55:05
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Roshni Brahmbhatt, Manager
Air Enforcement Office
Enforcement and Compliance Assurance Division
EPA Region 9 – San Francisco

Enclosures:

Appendix A: Instructions

Appendix B: Definitions

Appendix C: Statement of Certification

Appendix D: Information You Are Required to Submit to EPA

cc:

Marcello Diaz, Area Manager

Kinder Morgan, Inc.

Marcello_Diaz@kindermorgan.com

Nina McAfee
Kinder Morgan, Inc.
Nina_Mcafee@kindermorgan.com

Hanna Valenzuela, Compliance and Enforcement Division Manager
Maricopa County Air Quality Department
Hanna.valenzuela@maricopa.gov

Appendix A

Instructions

1. Please provide a separate narrative to each request and subpart of each numbered paragraph in Appendix D of this Information Request.
2. Where requested, please submit electronic data or list information in Microsoft Excel, Microsoft Access, or similar format. You may also submit documents requested in .pdf format. Prepare a cover letter that summarizes and references your responses provided; attach to the cover letter the Statement of Certification, (provided in Appendix C and described in the body of the above Information Request letter) signed by a corporate official with authority to make such representations.
3. If you have no information or documents responsive to a request, state so in your response.
4. Where documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information are not available or in your possession, and identify any source that either possesses or is likely to possess such documents or information.
5. Indicate for each document produced in response to this Information Request, or in some other reasonable manner, the number of the request to which it corresponds. If a document is responsive to more than one request, this must be indicated and only one copy of the document needs to be provided.
6. For each document provided in response to this Information Request, provide an accurate and legible copy submitted electronically and clearly label to which request(s) the document is responsive.
7. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner and the basis of the number provided (e.g., estimated, measured, or engineering judgement).
8. All responsive documents other than Microsoft Excel format must be provided as an accurate and legible copy in a searchable PDF file format and submitted electronically by email or FTP site.
9. Documents claimed as confidential business information ("CBI") must be submitted separately from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI.
10. Certify that the attached files have been scanned for viruses and indicate what program was used.

Appendix B

Definitions

1. The term “**affiliated organization**” means any organization or entity associated with you as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “**entity**” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization, or association.
3. The term “**information**” means any written, recorded, or graphic material of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, books, manuals, instructions, working papers, records, notes, letters, notices, confirmations, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (email), calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and work sheets.
4. The term “**information**” also includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “**information**” also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic or mechanical representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape, or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
5. The terms “**you**,” “**your**,” and “**Kinder Morgan**,” shall mean Kinder Morgan, Inc. and its affiliated organizations, and all agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this Information Request or information that is otherwise available to you, or who may have obtained information for or on behalf of Kinder Morgan.

6. The term “**person**” includes an individual, corporation, partnership, or association (see Section 302(e) of the CAA, 42 U.S.C. § 7602(e)).
7. All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, or are defined in Arizona’s SIP, in which case the statutory and/or regulatory definitions apply. Words in singular shall be construed in the plural, and vice versa, where appropriate in in the context of a particular request. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

Appendix C

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") information request, issued pursuant to Section 114(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by Kinder Morgan, Inc. to provide the above information on its behalf to EPA.

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 Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

Appendix D

Information You Are Required to Submit to EPA

Kinder Morgan, Inc. (“Kinder Morgan”) must submit the following information about the facility known as SFPP, LP Phoenix Terminal (“Facility”) in Maricopa County, Arizona pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), within fifteen (15) days of receiving this request. Please be sure to consult the instructions in Appendix A for your responses, in particular for any responses where you have no information or documents responsive to a request, state so in your response.

1. Pertaining to monthly leak detection logbooks for the Facility pursuant to Maricopa County Regulation III, Rule 351 (“Storage and Loading of Gasoline at Bulk Gasoline Plants and Bulk Gasoline Terminals”), Section 401 (“Equipment Leaks”), as enumerated in the Arizona State Implementation Plan (SIP), provide copies of the following:
 - a. Any reports and/or logs beyond those shared with the EPA as of November 20, 2024 either consistent with the requirements in Section 503 (“Records Retention,” “Leak Inspection Records”) or in any other format that the Facility maintained during the period of April 6, 2022 to present for equipment vapor leaks;
 - b. Documentation of any repairs to and/or corrective action plans for equipment resulting from the findings from 1.a;
 - c. Any correspondence with the Maricopa County Air Quality District (MCAQD) or the Maricopa County Air Pollution Control Officer (“Control Officer”) in response to Requests 1.a and 1.b;
2. Pertaining to annual leak detection reports for the Facility pursuant to Maricopa County Regulation III, Rule 351 (“Storage and Loading of Gasoline at Bulk Gasoline Plants and Bulk Gasoline Terminals”), Section 401 (“Equipment Leaks”), as enumerated in the Arizona State Implementation Plan (SIP), provide copies of the following:
 - a. Any reports and/or logs either consistent with the requirements in Section 503 or in any other format that the Facility maintained during the period of April 6, 2022 to present for equipment vapor leaks;
 - b. Documentation of any repairs to and/or corrective action plans for equipment resulting from the findings from 2.a;
 - c. Any testing done in compliance with Section 504 (“Compliance Determination – Test Methods Incorporated by Reference”);
 - d. Any correspondence with the MCAQD or the Control Officer in response to Requests 2.a, 2.b, or 2.c;
3. Pertaining to Maricopa County Regulation III, Rule 351, Section 303.5 (“Equipment Maintenance, Operation and Repair”), as enumerated in the Arizona SIP, provide copies of the following for the period of April 6, 2022 to present:
 - a. Any notification and/or correspondence with the MCAQD or the Control Officer in response to Section 303.5;
 - b. The results of any further inspections or testing subsequent to discovery of a vapor leak whether in compliance with Rule 351, Sections 401 or 303.5, or otherwise;

4. Pertaining to Rule 351, Section 501 ("Determining Vapor Tight Status"), provide the following for the period of April 6, 2022 to present:
 - a. Any testing conducted to determine the vapor tight status of equipment during the loading of a gasoline cargo tank;
 - b. Any correspondence with the MCAQD or the Control Officer in response to Request 4.a;
5. Provide the results of any compliance inspections conducted by MCAQD or the Control Officer as authorized by Rule 351, Section 502 ("Compliance Inspections") for the period of April 6, 2022 to present.