



June 6, 2024

VIA EMAIL:

fredf@gulfcoastpetro.com

Fred Figueroa
ABC Gulf Coast Terminal, LLC
15801 RL Ostos Road
Brownsville, Texas 78521

Re: Request for information pursuant to Section 3007 of Resource Conservation and Recovery Act

Dear Mr. Figueroa:

In this letter and its attachments, the EPA, Region 6 (EPA) requests that ABC Gulf Coast Terminal, LLC (ABC) furnish certain information relating to their handling, and storage, of solid and hazardous wastes, pursuant to the EPA's authority under Section 3007(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927(a). Compliance with this request is mandatory. Failure to respond fully and truthfully to the request or to adequately justify such failure to respond can result in enforcement action by EPA pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

Please respond to this request within thirty (30) calendar days of receipt.

This request concerns wastes identified by Customs and Border Protection as destined for ABC at the Port of Brownsville. Information available to the EPA, including information gathered during the EPA's inspection of the Port of Brownsville in September and October of 2023 and later discussions with ABC, indicates that ABC has been listed as the destination facility for potentially solid wastes and hazardous secondary materials imported into the US. The EPA requests that ABC provide the information detailed in Attachment A related to these materials.

You may assert a business confidentiality claim for all or part of your response to this request, in accordance with 40 Code of Federal Regulations ("C.F.R.") Part 2. If no claim is asserted, the information provided may be subject to public disclosure, consistent with Section 3007(b) of RCRA, 42 U.S.C. § 6927(b). Information qualifying as business confidential will be disclosed by EPA only to the extent and by the procedures set forth in 40 C.F.R. Part 2, Subpart B. To assert a confidentiality claim you must follow the procedures set forth in Attachment C. This Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, *et. seq.*

Instructions for preparing and submitting the information requested are given in Attachment A. Technical questions should be directed to Fred Deppe of the Waste Enforcement Branch at (214) 665-7591, and legal questions to Mr. Ravi Sharma of the Office of Regional Counsel at (214) 665-6719; Sharma.Ravi@epa.gov.

Thank you for your attention to this matter.

Sincerely,

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Attachments

cc: John Shelton: john.shelton@tceq.texas.gov

ATTACHMENT A: Information Request

I. General Instructions

1. A response is required within thirty (30) days from the date you receive this request. If you anticipate that you will be unable to fully respond to this request, you must submit a sworn affidavit or declaration by a responsible corporate official within twenty (20) calendar days of receipt of this Request specifying what information will be provided within the specified 30 calendar day time period, describing what efforts have been/are being made to obtain other responsive information, and providing a detailed schedule of when such other responsive information can be provided. Upon receipt and based on such affidavit or declaration, EPA may extend the time in which ABC must provide the responsive information.
2. All information submitted in response to this request must be certified as true, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of ABC. A Statement of Certification making such representations is provided as Attachment B. A knowing submittal of false information in response to this request may be actionable under 18 U.S.C. § 1001 and 42 U.S.C. § 6928(d). Furthermore, failure to fully comply with this request may subject ABC to an enforcement action under Section 3008 of RCRA, 42 U.S.C. § 6928.
3. 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.
4. This request for information is mandatory; information may not be withheld on the basis that it is considered confidential. However, you may assert a business confidentiality claim covering part or all of the information, in the manner described in Attachment C.
5. All terms used in the Request will have their ordinary meaning unless such terms are defined in RCRA, 40 C.F.R. Parts 260 - 280, and the federally authorized states Hazardous Waste, Hazardous Secondary Material, or Recyclable Material program.
6. All information responsive to this Request should be sent electronically to the following:

Mr. Fred Deppe
Waste Enforcement Branch (6ECDSR)
Enforcement and Compliance Assurance Division
U.S. EPA - Region 6
1201 Elm St, Suite 500
Dallas, TX 75270
Email: Deppe.Fred@epa.gov
Phone: 214-665-7591

II. Request Instructions

1. For each document produced in response to this Request, indicate on the document, or in some other reasonable manner, the number(s) of the Question to which it responds.
2. For each response, identify the person(s) who provided the information.
3. Please submit all information for each question in one logically sequenced electronic format (i.e., electronic copy) and one logically sequenced bound format (i.e., paper copy).
4. The terms "document" and "documents" shall mean any object that presents information, both electronic and tangible.

II. Information Request

1. Provide ABC's legal corporate name and where it is incorporated.
2. In your April 24th phone call with the EPA, you conveyed that you were aware of shipments arriving in the United States that were inappropriately described as destined for ABC. Please provide a brief narrative explaining how you became aware of these shipments and a brief narrative of your involvement with them to date.
3. Provide a description of the interrelated workings of ABC Gulf Coast LLC and Gulf Coast Petroleum Services. What formal/informal services, assignments, and/or contracted operations do these entities perform for one another.
4. Provide a description of your facility and a description of its processes, to include a process flow diagram if available.
5. Provide all Material Safety Data Sheets/Safety Data Sheets (MSDS/SDS) documentation for the past and present material in the 100,000-barrel tank for the past three years.
6. Provide all shipping records for what material went into the 100,000-barrel tank for the last three years, and shipping records for material which left the tank for the last three years.

Attachment B

STATEMENT OF CERTIFICATION

ABC Gulf Coast Terminal, LLC

I certify that I am authorized to respond to this information request on behalf of ABC Gulf Coast Terminal, LLC and I certify under penalty of perjury that the foregoing is true and correct. Executed on _____, 2024.

(Signature)

(Name)

(Title)

Attachment C

CONFIDENTIAL BUSINESS AND PERSONAL PRIVACY INFORMATION ASSERTION REQUIREMENTS

This request for information is mandatory; information may not be withheld on the basis that it is considered confidential. However, you may assert a business confidentiality claim covering part or all of the information, in the manner described below. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. part 2, subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. The regulations and procedures applicable to confidentiality claims are in 40 C.F.R. part 2, subpart B, and were most recently amended by *Public Information and Confidentiality Regulations*, 50 Fed. Reg. 51,654 (December 18, 1985).

To make a confidentiality claim, you must submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption 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 EPA only to the extent permitted and by means of the procedures set forth at Section 3007(b) of the RCRA and 40 C.F.R. part 2. You must clearly identify allegedly confidential portions of otherwise non-confidential documents. The EPA will construe the failure to furnish a confidentiality claim with your response to this Request as a waiver of that claim, and the information may be made available to the public without further notice to you.

All confidentiality claims are subject to EPA verification. 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), as described in 40 C.F.R. § 2.204(e). In your substantiation it will be important to satisfactorily demonstrate that you have taken reasonable measures to protect the confidentiality of the information, you intend to continue to do so, and that the information has not been obtainable by legitimate means without your consent. Information that is publicly available or required to be disclosed to the public by law is not entitled to confidential treatment. Please refer to 40 C.F.R. § 2.305, special rules governing certain information obtained under the Solid Waste Disposal Act.