



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

27 MAR 2015

REPLY TO THE ATTENTION OF:

WC-15J

CERTIFIED MAIL 7014 2870 0001 9580 7535
RETURN RECEIPT REQUESTED

Robert B. Miller & Associates
230 S. Bemiston Ave.
Suite 1230
St. Louis, MO 63105

Subject: Information Request
Issued Pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a)
Docket No. V-W-15-308-15

To Whom It May Concern:

Under the authority of Section 308 of the Clean Water Act (Act), 33 U.S.C. § 1318(a), the U.S. Environmental Protection Agency requests that you provide us with information within the timeframes specified about Vessels, including barges, operating in and around the water bodies in Chicago, Illinois.

Please submit the information requested with a statement certifying that all representations contained therein are true and accurate to the best of your knowledge and belief using the certification language provided. Please exercise care to assure that responses are complete and accurate, because Section 309(c)(2) of the Act, 33 U.S.C. § 1319(c)(2), provides for the imposition of criminal penalties where false information is knowingly provided to the EPA.

If you have any questions concerning this matter, please contact Joan Rogers, of my staff at (312) 886-2785 or Nicole Cantello of the Office of Regional Counsel at (312) 886-2870.

Sincerely,

A handwritten signature in blue ink, appearing to read "DMR".

Dean Maraldo
Chief
Water Enforcement and Compliance Assurance Branch

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	Docket No. V-W-15-308-15
)	
Robert B. Miller & Associates)	
)	Proceeding under Section 308(a) of
)	the Clean Water Act, as amended,
)	33 U.S.C. § 1318(a)
UNDER THE VESSEL GENERAL)	
PERMIT FOR DISCHARGES)	
INCIDENTAL TO THE NORMAL)	
OPERATION OF VESSELS (VGP))	
)	

REQUEST FOR INFORMATION

The U.S. Environmental Protection Agency is requiring Robert B. Miller & Associates (Miller) to submit certain information about Vessels, including barges, operating in and around the water bodies in Chicago, Illinois. You must send this information to the EPA within the timeframes specified within this request. There are significant civil and criminal penalties for failing to respond to requests issued pursuant to Section 308(a) in a timely, complete and accurate manner.

EPA is issuing this information request under section 308(a) of the Clean Water Act (Act), 33 U.S.C. § 1318(a) which authorizes the Administrator of the EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Water Division, Region 5 who has delegated this authority to the Branch Chief of the Water Enforcement and Compliance Assurance Branch.

I. INSTRUCTION AND DEFINITIONS

1. You must respond separately to each of the questions or requests. Precede each answer with the number of the Request for Information to which it corresponds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds. If Miller does not have documents responsive to a particular question, in its written response to this request, state that Miller does not have such documents.
2. The term "record" or "records" is defined for purposes of this request as any recording of information in tangible form. It includes, but is not limited to, documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer print outs and computer data bases.

3. "Bulk Solid Material" shall mean petroleum coke, coal and any solid substance or material that can be used as a fuel or as an ingredient in a manufacturing process that may become airborne or be scattered by the wind.
4. "City of Chicago Waterways" shall mean the Calumet River, the Cal-Sag Channel, the Chicago River, Chicago Sanitary and Ship Canal (Upper and Lower), the North Shore Channel (Upper and Lower), the South Branch of the Chicago River, the South Fork of the South Branch of the Chicago River, the Little Calumet River, the Lake Calumet Connecting Channel, the West Branch of the Grand Calumet River and Lake Michigan waters up to 5 miles from the mouth of any water listed in this definition to Lake Michigan.
5. "KCBX North Terminal" shall mean the real property owned or operated by KCBX Terminals, Inc. located at 3259 E. 100th Street, Chicago, Cook County, Illinois.
6. "KCBX South Terminal" shall mean the real property owned by KM Railways, Inc. or operated by KCBX Terminals, Inc. located at 10730 South Burley Avenue, Chicago, Cook County, Illinois.
7. "Minimize" shall mean reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best marine practice.
8. "Vessel" shall mean every description of watercraft or other artificial contrivance being used in a capacity as a means of transportation on "Waters of the United States." The defined term "Vessel" includes a non-self-propelled barge.
9. "Waters of the United States" is defined in 40 CFR 122.2.

II. STATEMENTS OF FACTS AND CONCLUSIONS OF LAW

10. Section 301 of the Clean Water Act generally prohibits the discharge of pollutants incidental to the normal operation of a Vessel to Waters of the United States unless the discharge occurs in compliance with an NPDES Permit issued pursuant to section 402 of the Clean Water Act. 33 U.S.C. §§ 1310, 1342.
11. Pursuant to section 402 of the Clean Water Act, EPA issued the 2013 Vessel General Permit For Discharges Incidental to the Normal Operation of Vessels (2013 VGP) to authorize discharges incidental to vessels over 79 feet.
12. The 2013 VGP includes the following specific requirement at Part 2.1.1:

For cargoes or onboard materials which might wash overboard or dissolve as a result of contact with precipitation or surface water spray, or which may be blown overboard by air currents, you must minimize the amount of time these items are

exposed to such conditions. Locate storage areas on the vessel for such items in covered areas where feasible and consistent with any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating that establish specifications for safe transportation, handling, carriage, and storage of pollutants (see Part 2.1.5).

13. To further expand on this requirement, page 55 of the 2013 VGP Fact Sheet explains: "...the permit requires that all vessel operators practice good environmental stewardship by minimizing any exposure of cargo or onboard materials that may result in releases of contaminants to the environment. This can be accomplished by containerizing or tarping materials, and generally limiting any exposure of these materials to wind, rain, or spray."
14. In addition, Part 2.2.1 of the 2013 VGP includes a requirement for Vessels to control Deck Washdown and Runoff discharges: "Vessel owner/operators must minimize the introduction of on-deck debris, garbage, residue, and spill into deck washdown and runoff discharges. Before deck washdowns occur, you must broom clean (or equivalent) exposed decks or use comparable management measures and remove all existing debris."
15. The 2013 VGP contains specific requirements applicable to barges at Part 5.4, including supplemental inspection requirements at Part 5.4.2.
16. The EPA has been made aware of citizen and other complaints regarding Bulk Solid Materials blowing from Vessels, including barges, located in and around the KCBX North and South Terminals into the Waters of the United States.
17. Vessel(s) owned or operated by Miller either transport or carry Bulk Solid Material to or from KCBX's North or South Terminals.
18. The 2013 VGP required that Vessels seeking coverage for discharges under the 2013 VGP that are greater than or equal to 300 gross tons or have the capacity to hold or discharge more than 8 cubic meters of ballast water must file a Notice of Intent (NOI) by 7 days prior to discharge to Waters of the United States if filing an eNOI (electronic NOI) or 30 days prior to discharges into Waters of the United States if filing a Paper NOI.
19. Miller has filed NOIs for its Vessels to be covered by the 2013 VGP and, therefore, must comply with the terms of the 2013 VGP.
20. The 2013 VGP Parts 2.1.1 and 2.2.1 require Vessels to take steps to minimize the amount of time the Bulk Solid Materials are exposed to conditions that may cause the Bulk Solid Materials to be blown from the hold or blown/washed from the deck of Vessels (including barges).

III. REQUESTS


21. Within 10 days of receipt of this Request, Miller shall submit a written certification of its intent to comply with this Request.
22. For the time period starting August 1, 2014, to the date of signature by EPA for this Request for Information, Miller shall submit to EPA a list of each Vessel (including barges) that has transported or carried Bulk Solid Materials on board the vessel in Waters of the United States, in and around City of Chicago waterways, including the 2013 VGP Permit Tracking Number, Vessel Name, U.S. Coast Guard Registered Number (as applicable) and the cargo capacity (in tons) of each Vessel.
23. For the time period starting August 1, 2014, to the date of signature by EPA for this Request for Information, Miller shall submit to EPA all measures taken to comply with Parts 2.1.1 and 2.2.1 of the 2013 VGP, regarding all vessels owned, leased or operated by Miller that transported or carried Bulk Solid Material to or from the KCBX North or South Terminal.
24. From the date of signature by EPA until notification of termination of this Request by U.S. EPA, Miller shall submit a description, on the 15th of each month for voyages taken during the previous month, of all measures taken to comply with Parts 2.1.1 and 2.2.1 of the 2013 VGP, for voyages that transport Bulk Solid Material to or from the KCBX North or South Terminal, including the dates/times of each voyage and the identification of the Vessel used, including its 2013 VGP Permit Tracking Number and Vessel Name.
25. For the time period starting August 1, 2014, to the date of signature by EPA for this Request for Information, Miller shall submit to EPA a copy of all operating plans or Standard Operating Procedures (SOPs) used by Miller to comply with Parts 2.1.1 and 2.2.1 of the 2013 VGP, to the present, regarding all vessels owned, leased or operated by Miller that transported Bulk Solid Material to or from the KCBX North or South Terminal.
26. Except for those instances reported in response to paragraph 23. above, for the time period starting August 1, 2014, to the date of signature by EPA for this Request for Information, and referencing the vessels listed in response to paragraph 22 (above), Miller shall submit each date that each vessel, including barges, has transported or carried coal or petroleum coke on Waters of the United States, in and around City of Chicago waterways. For each occasion that Miller transported or carried coal or petroleum coke, provide the method of compliance with Parts 2.1.1 and 2.2.1 of the 2013 VGP that was employed.
27. Miller shall maintain all records described above, until EPA informs Miller in writing that maintenance of such records is no longer required.

28. Please submit your responses to this request within 21 days to:

Joan Rogers
Water Enforcement & Compliance Branch (WC-15J)
EPA Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

And via email to Rogers.joan@epa.gov and Cantello.nicole@epa.gov.

29. You may consider confidential the information that you submit to us. You may assert a claim of business confidentiality for any portion of the submitted information, except effluent data, under 40 C.F.R. Part 2, subpart B. 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.
30. You must submit all requested information under an authorized signature with the following certification: "All written statements submitted pursuant to this Request for Information are true and accurate to the best of the signatory's knowledge and belief." If at any time after submitting the requested information, the signatory determines that any portion of such statement(s) certified as true is false or incorrect, the signatory must notify Region 5. Knowingly providing false information, in response to this request, may be actionable under section 309(c)(4) of the Act, and 18 U.S.C. §§ 1001 and 1341.
31. EPA may use the information submitted in response to this request in an administrative, civil, or criminal action.
32. This request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information from a specific entity, Miller, as part of a discrete administrative action or investigation.
33. Neither the issuance of this request by EPA nor compliance with this request by you, relieves you of liability for any penalty, fine, remedy, or sanction authorized to be imposed pursuant to sections 309(b), (c), (d), and/or (g) of the Act, including but not limited to any violations addressed by this request. EPA specifically reserves the right to seek any or all of the remedies specified in sections 309(b)(c), (d), and/or (g) of the Act.



Dean Maraldo
Chief, Water Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5

3/27/15
Date