



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

June 6, 2023

SENT VIA EMAIL
RETURN RECEIPT REQUESTED

Mike Comb
General Manager
St. Martin Branch
Louisiana Sugar Cane Cooperative Inc.
6092 Resweber Highway
St. Martinville, LA 70582

Sent via email: mike@lasuca.com

RE: Clean Air Act Section 114 Information Request
Louisiana Sugar Cane Cooperative Inc., St. Martin Branch

Dear Mr. Comb:

Enclosed is an Information Request ("Request") issued to Louisiana Sugar Cane Cooperative Inc. ("Lasuca"). This Request is being made pursuant to the authority set forth in Section 114 of the Clean Air Act ("CAA"), 42 U.S.C. § 7414. The purpose of this Request is to obtain information regarding Lasuca, St. Martin Branch, in St. Martinville, Louisiana to determine compliance with applicable provisions of the CAA.

Please provide the information requested within thirty (30) days of receipt of this letter. If you have any technical questions, please direct them to Colleen McCarthy at mccarthy.colleen01@epa.gov or 214-665-7334. If you have any legal questions, need to request an extension, please contact Carlos Zequeira Assistant Regional Counsel, at zequeira.c@epa.gov or 214-665-8053. In order to allow sufficient time for review, any such request for an extension of time must be made at least ten (10) calendar days prior to the date on which the requested information is due to EPA.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Cheryl T. Seager".

Digitally signed by CHERYL
SEAGER
Date: 2023.06.06 14:53:07
-05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosures

Ec: Eura DeHart, Louisiana Department of Environmental Quality
eura.dehart@la.gov
Erin Colborn, Pangaea Conservation & Compliance, LLC
ecolborn@pangaeacc.com
John B. King, Breazeale, Sachse & Wilson, L.L.P.
John.king@bswllp.com

ENCLOSURE A

INFORMATION REQUEST

The U.S. Environmental Protection Agency (“EPA”), Region 6 is issuing this Information Request (“Request”) to Louisiana Sugar Cane Cooperative Inc. (“Lasuca”) pursuant to Section 114(a) of the Clean Air Act (“CAA” or “the Act”), 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 Enforcement and Compliance Assurance Division, EPA Region 6. Therefore, Lasuca is required to provide a response to this Request regarding the St. Martin Branch located in St. Martinville, Louisiana (the “Facility”).

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. 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. Emissions data is exempt from claims of confidentiality under Section 114 of the Act, 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.

Enclosure B specifies the assertion and substantiation requirements for business confidentiality claims.

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 Lasuca. We request that a duly authorized officer or agent of Lasuca certify your response to this Request by signing the enclosed Statement of Certification, provided in **Enclosure C**, and returning it with your response. 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. § 7413(c). See also 18 U.S.C. §§ 1341 and 1519. Furthermore, failure to fully comply with this Request may subject Lasuca to an enforcement action under Section 113 of the CAA, 42 U.S.C. § 7413. EPA may use any information submitted in response to this request in an administrative, civil, or criminal action.

We ask Lasuca to submit its response electronically by uploading all required information to a OneDrive folder that will be shared with the appropriate personnel. Please contact Colleen McCarthy at mccarthy.colleen01@epa.gov to make arrangements to submit your response.

Please be advised that some companies may qualify as a “small business” under the Small Business Regulatory Enforcement and Fairness Act (“SBREFA”). To help small business

owners assess their small business status, the U.S. Small Business Administration (“SBA”) has established a Table of Small Business Size Standards, which can be found at:

<https://www.sba.gov/document/support-table-size-standards> If Lasuca qualifies as a small business, please review the SBREFA Information Sheet designed to provide information on compliance assistance to entities that may qualify as small businesses as well as to inform them of their right to comment to the SBREFA Ombudsman concerning EPA enforcement activities. The SBREFA Information Sheet can be found at:

https://www.epa.gov/sites/default/files/2017-06/documents/smallbusinessinfo.pdf?VersionId=6aAtP3_v8qG6FApYqI6sBZbO8JFa2ple.

Please be aware that SBREFA does not eliminate Lasuca’s responsibility to respond in a timely fashion to any complaint or Request that EPA may issue or other enforcement action that EPA may take, nor does SBREFA create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman. If you are unable to access the links provided or need a hard copy, please contact the Enforcement Officer listed above.

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.

SECTION I. GENERAL 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.
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 corresponds. If a document is responsive to more than one question, this must be so indicated, and only one copy of the document need be provided.
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 the question to which it corresponds. If you have no responsive information or documents pertaining to a particular question or subpart of a question, submit a statement certifying this, along with a detailed explanation for each such question.
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. Please provide copies of documents in searchable electronic format (*e.g.*, Microsoft Word or optical character recognition (OCR) Adobe Acrobat (PDF)).

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6. Data should be provided in searchable and editable electronic format (*e.g.*, Microsoft Excel or other electronic spreadsheet format).
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 for the number provided (*e.g.*, estimated, measured or engineering judgment).
8. Paper documents should be electronically produced, *i.e.*, scanned and legible copies, organized by the number of the question to which it responds. "Paper documents" means (i) documents that exist only in paper form, or (ii) paper version of documents that also exist in electronic form, only in cases where the paper version contains additional information, such as annotations or signatures, that exist only on the paper copy.
9. Please submit confidential business information (CBI) and non-confidential information separately and identify as such. Please mark each page that is CBI as such. To make a CBI claim on electronic copy documents, mark each page that is claimed, by cover sheet, stamp, or other suitable form of notice with language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and submitted separately to facilitate identification and handling by EPA. The assertion and substantiation requirements for CBI claims are discussed in **Enclosure B**.
10. Indicate the assigned facility-wide federal air program (*e.g.*, AFS) and state identification numbers (*e.g.*, Agency Interest, Regulated Entity) for the subject Facility.
11. Please identify documents 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 already provided in response to another specific question. Please indicate the number of the question to which the document corresponds.
12. If information responsive to this Request was previously provided to EPA subsequent to a recent EPA CAA inspection, EPA does not require that such information be submitted again. In lieu of resubmitting such information, please indicate which information was already provided, the date that the information was submitted to EPA, and to whom it was provided. If previously submitted information does not fully and completely respond to a question, Lasuca is obligated to provide additional information to fully and completely respond to that question. If Lasuca has any questions regarding the responsiveness of previously submitted information, please contact Carlos Zequeira at 214-665-8053.
13. The enclosed Statement of Certification (**Enclosure C**) must be filled out and signed by a responsible corporate official and submitted along with your responses to this Request.

SECTION II. DEFINITIONS

All terms used in the Request will have their ordinary meaning unless such terms are defined in the CAA, 2 U.S.C. § 7401 et seq., other CAA implementing regulations, or otherwise defined herein:

1. The terms “document,” “documents,” and “documentation” means any object that records, stores, or presents information, and includes writings of any kind, formal or informal, draft or final, whether or not wholly or partially in handwriting, including documentation solely in electronic form, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, accounting or financial records, time records, record book, minutes, memorandum of telephone and other conversations, including meetings, contracts, agreements and the like, facsimiles (faxes), diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, email, analysis, comparison, data, sampling report, graph, chart, interoffice or intraoffice communications, infrared camera recordings, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any hard drive, USB drive, CD, DVD, 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 hard drive, USB drive, CD, DVD, or other type of memory and together with printouts of such hard drive, USB drive, CD, DVD, 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 Louisiana Sugar Cane Cooperative Inc. (“Lasuca”) includes any officer, director, agent, or employee of Lasuca, 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 Act, 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” means all companies or corporations with which Lasuca 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. 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.

SECTION III. QUESTIONS

Using the Instructions and Definitions set forth in Sections I and II of Enclosure A, please provide responses to the following Questions about the Facility.

1. If the Louisiana Department of Environmental Quality (“LDEQ”) has taken enforcement action in response to information responsive to this Request, please provide the Notice of Violation and/or relevant enforcement documents.
2. Provide a copy of all permit applications submitted to LDEQ for the Facility since January 1, 2018. Also provide a copy of the most recent Title V permit renewal application.
3. Provide process flow diagrams for the Facility, including all tanks. The process flow diagrams shall show the flow of all material into and out of each emission unit and the associated air pollution control equipment if present.
4. Provide copies of all quarterly reports, semi-annual compliance reports, deviation reports, excess emission reports, or equivalent documents submitted to LDEQ or EPA for the Facility since January 2018.
5. Provide copies of all notifications of initial compliance, notifications of compliance status, or equivalent documents for the Facility submitted in accordance with 40 C.F.R. 63 Subparts A, CCCCCC, and JJJJJJ.
6. Provide potential-to-emit calculations for volatile organic compounds (VOC) and individual and total hazardous air pollutants (HAPs) for each emission unit at the Facility.
7. Provide copies of all calculations of annual emissions in a Microsoft Excel compatible format for the Facility from 2018 to the present, and include:
 - a. A narrative describing the method used for the annual emissions calculations for each pollutant, including the basis of any emissions factors used;
 - b. Any documents outlining procedures for calculation of annual emissions; and
 - c. All supporting production data.
8. Provide an electronic spreadsheet with the following information for each boiler located at the Facility from January 2018 to the present:
 - a. The boiler description as given in the applicable permit;
 - b. The boiler installation date;
 - c. The operating parameter(s) monitored at the boiler for environmental compliance;
 - d. The operating parameter range established for regulatory compliance, the method used to establish the values (reference performance test as applicable), and the effective date of those operating limits;

- e. The monitored operating parameter data, with an identification of the date, time and duration of each deviation from the operating parameter range when the associated emission units are in operation, as well as an annual deviation total (in hours) for each calendar year for each boiler;
 - f. The corrective action taken for each deviation from the operating parameter range;
 - g. The date and duration of all boiler shutdowns as well as an annual total (in hours) for each calendar year;
 - h. The amounts of each fuel combusted during each day; and
 - i. Annual maximum throughput at each boiler.
9. Provide the following information relating to maintenance and repair for each boiler located at the Facility from January 2018 to present, unless otherwise noted:
- a. Maintenance and Repair Plans;
 - b. Records of startup, shutdown, maintenance and malfunction activity periods at each boiler for the past four years from the date of this request. Specify the duration and type of each event;
 - c. Records detailing repair events following periods of maintenance and/or malfunction; and
 - d. All copies of tune-up records for each boiler since January 2013.
10. Provide copies of all records relating to initial and routine performance stack tests at each boiler located at the Facility since January 2013, including but not limited to:
- a. Records of test plans;
 - b. Records of performance stack test results for all criteria pollutants and VOCs for each test run;
 - c. Operating load while burning the type of fuel that has the highest emissions potential for each regulated pollutant; and
 - d. Notifications of intent to conduct performance testing.
11. Provide an electronic spreadsheet with the following information for each scrubber located at the Facility from January 2018 to present:
- a. The number and installation date for each scrubber;
 - b. The scrubber description as given in the applicable permit;
 - c. The emission unit(s) routed to the scrubber;
 - d. The operating parameter(s) monitored at the scrubber for environmental compliance;
 - e. The operating parameter range established for regulatory compliance, the method used to establish the values (reference performance test as applicable), and the effective date of these operating limits;
 - f. The monitored operating parameter data, with an identification of the date, time and duration of each deviation from the operating parameter range when the associated emission units are in operation, as well as annual deviation total (in hours) for each calendar year for each scrubber;
 - i. Include notifications of any exceedance or excursion level of the scrubber water flow rate.
 - g. The corrective action taken for each deviation from the operating parameter range;

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- h. The date and duration of all scrubber shutdown or bypasses when the associated emission units are in operation, as well as an annual total (in hours) for each calendar year;
 - i. Provide a narrative of how wastewater from each scrubber is handled, treated, and/or disposed of; and
 - j. Provide a summary and records of all maintenance conducted on each scrubber from January 2018 to present
- 12. Provide existing written plans or procedures regarding environmental compliance reporting for the Facility.

ENCLOSURE B

**CONFIDENTIAL BUSINESS INFORMATION (CBI)
CLAIM ASSERTION & SUBSTANTIATION REQUIREMENTS**

Assertion - You may assert a business confidentiality claim covering all or part of the information requested in response to this Request, as provided in 40 C.F.R. § 2.203(b). You may assert a business confidentiality claim covering such information by placing on (or attaching to) the information you desire to assert a confidentiality claim, at the time it is submitted to EPA, a cover sheet, stamped, or typed legend (or other suitable form of notice) employing language such as “trade secret,” “proprietary,” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and submitted separately to facilitate identification and handling by EPA. If confidential treatment is desired up until a certain date or until the occurrence of a certain event, the notice should state this. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Clean Air Act (CAA) and 40 C.F.R. Part 2.

EPA will construe the failure to furnish a CBI 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. You should read 40 C.F.R. Part 2 carefully before asserting a 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. Any emissions data you provide may be made available to the public. Information subject to a confidentiality claim is available to the public only to the extent allowed under 40 C.F.R. Part 2, Subpart B.

Substantiation - All confidentiality claims are subject to EPA verification in accordance with 40 C.F.R. Part 2, Subpart B. The criteria for determining whether material claimed as confidential is entitled to such treatment are set forth at 40 C.F.R. §§ 2.208(a)-(d) and 2.301. These regulations provide that business information is entitled to confidential treatment if: (a) The business has asserted a business confidentiality claim which has not expired by its terms, nor has been waived nor withdrawn; (b) that the business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information and it intends to continue to take such measures; the information is not, and has not been, reasonably obtainable without the business’s consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding); (d) no statute specifically requires disclosure of the information; and either (e)(1) disclosure of the information is likely to cause substantial harm to your business’s competitive position¹; or (e)(2) the information is voluntarily submitted, and its disclosure would be likely to impair the Government’s ability to obtain necessary information in the future. *See* 40 C.F.R. § 2.208(a)-(e). Emissions data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. *See* 40 C.F.R. § 2.301(e).

¹ You will not be required to show that disclosure of the information is likely to cause substantial harm to your competitive position, in light of the Supreme Court’s decision in *Food Marketing Institute v. Argus Leader Media*, No. 18-481 (U.S. Supreme Court, June 24, 2019). As a result of that decision, EPA will not consider whether there is substantial competitive harm in evaluating your CBI claim.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a substantiation request letter (separate from this Request) asking you to substantiate your CBI claim. If you receive a substantiation request letter, you must provide EPA with a response within the time frame set forth in the letter. Failure to submit a response within that time would be regarded as a waiver of your claim, and EPA may release the information. If you receive a substantiation request letter, EPA will ask you to specify which portions of the information you consider CBI. You must be specific by page, paragraph, and sentence when identifying and substantiating the information subject to your claim. Any information not specifically identified as subject to a CBI claim may be disclosed without further notice to you. If you receive a substantiation request letter, for each item or class of information that you identify as being subject, you will be asked to answer the questions below, giving as much detail as possible, in accordance with 40 C.F.R. § 2.204(e):

1. What specific portions of the information do you allege to be entitled to confidential treatment? 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 an event will eliminate the need for confidentiality, please specify the 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 agreement not to disclose it? If so, why should the information 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, explain with specificity whether 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?

You will not be required to respond to this question in light of the Supreme Court's decision in *Food Marketing Institute v. Argus Leader Media*, No. 18-481 (U.S.)

Supreme Court, June 24, 2019). As a result of that decision, EPA will not consider whether there is substantial competitive harm in evaluating your CBI claim.²

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 emissions data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. § 2.301(a)(2)(i)(A)-(C). “Emission data” means, with reference to any source of emission of any substance into the air:

(A) 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 source), or any combination of the foregoing;

(B) 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 source operation); and

(C) A general description of location and nature of source to extent necessary to identify and distinguish from other sources (including, as necessary for such purposes, a description of the device, installation, or operation constituting the source).

If you receive a substantiation request letter from EPA, you bear the burden of substantiating your CBI claim. Conclusory allegations will be given little or no weight in the determination. Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline specified in a substantiation request letter, should you receive such a letter. EPA will construe your failure to furnish a timely response to a substantiation request letter as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1), and EPA may release the information.

² For more information, please visit the Department of Justice’s guidance at: <https://www.justice.gov/oip/exemption-4-after-supreme-courts-ruling-food-marketing-institute-v-argus-leader-media>.

ENCLOSURE C

STATEMENT OF CERTIFICATION

**St. Martin Branch
Louisiana Sugar Cane Cooperative Inc.
St. Martinville, LA**

You are responding to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Section 114 of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

Please sign the certification statement below.

I certify under penalty of law that am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations pursuant to Section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.

Signature

Printed Name

Title

Executed on _____