



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

VIA ELECTRONIC MAIL

Dated by Electronic Signature

Howard Peterson
Manager
Renewable Fuels by Peterson LLC
35 Business Park Road
North Haverhill, NH 30774

President
Peterson's Oil Service, Inc.
75 Crescent Street
Worcester, MA 01605
hpeterson@petersonoil.com

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

Dear Mr. Peterson:

The United States Environmental Protection Agency (EPA) hereby requires Renewable Fuels by Peterson LLC, Peterson Oil Services, Inc., and any Affiliates (collectively, you), to provide certain information to determine your compliance with section 211 of the Clean Air Act (CAA), 42 U.S.C. § 7545, and the Renewable Fuel Standard program set forth at 40 C.F.R. Part 80, Subpart M.

This letter and the enclosed appendices are collectively referred to as the Information Request. Appendix A provides instructions for your response to this request, Appendix B provides definitions, and Appendix C specifies the information that you must submit to comply with this Information Request. You must submit this information to the EPA within **10 business days** from the date of your receipt of this request. Please note that if additional information responsive to this request is identified, found, or located by you following your response to this request, you are required to submit all such material within 30 calendar days of discovery.

The EPA issues this Information Request under section 114(a) of the CAA, 42 U.S.C. § 7414(a). Under section 114(a), the Administrator of the EPA may require any person who is subject to the CAA to provide certain information, including information to evaluate that person's compliance with section 211 of the CAA, 42 U.S.C. § 7545, and the implementing regulations. This authority has been redelegated to the Chief of the Fuels Enforcement Branch in the Air Enforcement Division within the Office of

Enforcement and Compliance Assurance.

Failure to provide the required information may result in the initiation of an enforcement action pursuant to section 113 of the CAA. 42 U.S.C. § 7413. Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries. It is important that your responses be clear, accurate, and complete. The EPA will regard the submission of information that is misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA. Please carefully review the instructions, definitions, and the specific information requested as you prepare your response.

You must submit all requested 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, and that all Documents produced in response to this Information Request are true and complete copies of Documents as maintained in the ordinary course of the company's business. 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.

The EPA may use any information submitted in response to this request in administrative, civil, or criminal action(s).

You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this request, in accordance with the procedures described in the confidentiality of business information (CBI) regulations, 40 C.F.R. Part 2, Subpart B. However, no such CBI claim may be made with respect to emission data, as defined at 40 C.F.R. § 2.301(a)(2). You must specify the page, paragraph, and sentence when identifying the information subject to your claim. Appendix D of this Information Request specifies the assertion requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

The EPA prefers electronic submittals in lieu of hard copy submissions. If possible, we ask that you provide all requested information via OneDrive using the secure link provided in the email transmitting this Information Request.

If you have any questions concerning this Information Request please contact Taylor Waanders at (303) 312-6273 or waanders.taylor@epa.gov, or have your attorney contact Jess Portmess at (303) 312-7026 or portmess.jessica@epa.gov.

**TIMOTHY
SULLIVAN**

Digitally signed by
TIMOTHY SULLIVAN
Date: 2023.07.31
10:35:09 -06'00'

Timothy J. Sullivan
Acting Chief
Fuels Enforcement Branch
Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance

Enclosures

Appendix A Instructions

1. Provide a separate response to each request set forth in Appendix C of this Information Request. If you have no responsive information or Documents pertaining to a particular request, submit an affirmative statement to that effect and include an explanation.
2. At the end of each answer, identify the person(s) (including name, title, and a description of job duties) that provided information that was used or considered in responding to that request, as well as each person (including name, title, and a description of job duties) who was consulted in the preparation of that response.
3. Please indicate on 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 so indicated and only one copy of the Document needs to be provided.
4. When a response is provided in the form of a number, specify the units of measure of the number.
5. Where a Document or information necessary for a response is neither in your possession nor available to you, indicate in your response why such Document or information is not available or in your possession and identify who either possesses or is likely to possess such information.
6. All submitted Documents should be copies and not original Documents.
7. Provide all responsive Documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, provide the PDF in an Optical Character Recognition (OCR) searchable format.
8. Where spreadsheets are responsive to a request, produce them in unlocked, non-password protected, electronic spreadsheet format, such as .xls or .csv (locked spreadsheets and .pdf files are unacceptable).
9. This Information Request is a continuing request. You must promptly supplement your response in the event you learn that you possess responsive information not yet produced, or if you gain possession, custody, or control of responsive information after initially responding to this Information Request.

Appendix B **Definitions**

All terms used in this Information Request will have their ordinary meaning unless defined in the CAA, 42 U.S.C. § 7401 *et seq.*; the implementing fuels regulations at 40 C.F.R. Parts 80 or 1090; or otherwise defined herein.

1. “Affiliate” is used to indicate a relationship to a specified Entity, and means any Entity that, directly or indirectly or through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control. This includes, but is not limited to, contractual and corporate affiliates as defined at 40 C.F.R. § 80.1401.
2. The terms “Document” and “Documents” mean any object that records, stores, or presents information, and includes, without limitation, emails, writings, memoranda, contracts, agreements, records, or information of any kind, formal or informal, whether wholly or partially handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy, including any form or format of these. If in computer format or memory, each such Document shall be provided in translation to a form useable and readable by the EPA, with all necessary documentation and support. All Documents in hard copy shall also include attachments to or enclosures with any Document.
3. “Person” or “Entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization, or association.
4. “Peterson Oil Services, Inc.” means all of Peterson Oil Services, Inc.’s agents, servants, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, Affiliates, predecessors, successors, and assigns who are in possession, custody or control (actual or constructive) of relevant information that is otherwise available to Peterson Oil Services, Inc., or may have obtained information for or on behalf of Peterson Oil Services, Inc.
5. “Renewable Fuels by Peterson LLC” means all of Renewable Fuels by Peterson LLC’s agents, servants, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, Affiliates, predecessors, successors, and assigns who are in possession, custody or control (actual or constructive) of relevant information that is otherwise available to Renewable Fuels by Peterson LLC, or may have obtained information for or on behalf of Renewable Fuels by Peterson LLC.
6. “EPA Moderated Transaction System” or “EMTS” means a closed, EPA moderated system that provides a mechanism for screening and tracking Renewable Identification Numbers (RINs) per 40 C.F.R. § 80.1452.
7. “Product transfer documents” or “PTDs” mean documents (e.g., invoices, receipts, bills of lading, manifests, pipeline tickets) that include the information listed in 40 C.F.R. §§ 80.1453 and 1090.1100.

8. “Renewable fuel” means fuel that is produced from renewable biomass; is used to replace or reduce the quantity of fossil fuel present in a transportation fuel, including heating oil, or jet fuel; and has lifecycle greenhouse gas emissions that are at least 20 percent less than baseline lifecycle greenhouse gas emissions, unless the fuel is exempt from this requirement under 40 C.F.R. § 80.1403.
9. “Renewable Identification Number” or “RIN” means a unique number generated to represent a volume of renewable fuel pursuant to 40 C.F.R. §§ 80.1425 and 80.1426.

Appendix C
Information Request

This Information Request, which is being issued pursuant to section 114(a) of the CAA, 42 U.S.C. § 7414(a), pertains to renewable fuel produced by Renewable Fuels by Peterson LLC (EPA Company ID. 6880) at the biodiesel production facility located at 35 Business Park Road in North Haverhill, New Hampshire (Facility No. 80281).

Information Requested:

1. 

2. Provide electronic copies of the Documents in (a)–(c) below for the following RIN sale transactions. Answer (d) if Renewable Fuels by Peterson LLC does not have the requested Documents in its possession.

EMTS Submission Date	Transfer Date	Buyer Company ID	Sell Reason Code Text	Fuel Code Text	Assignment Code Text
11/9/2020	(b)(4) - CBI	(b)(4) - CBI	Standard Trade	(b)(4) - CBI	(b)(4) - CBI
5/27/2020			Standard Trade		
12/22/2021			Standard Trade		
3/23/2021			Standard Trade		
8/31/2022			Standard Trade		
2/8/2022			Standard Trade		
1/19/2023			Standard Trade		

- a. Product transfer documents, correspondence emails, faxes, and letters relating to the transfer of renewable fuel or RINs from Renewable Fuels by Peterson LLC to and from any other Person or Entity;
- b. Records supporting the designation and use of fuel as transportation fuel, heating oil, or jet fuel;
- c. Copies of contracts or agreements between Renewable Fuels by Peterson LLC and any other Person or Entity relating to purchase, sale, and separation of RINs generated by Renewable Fuels by Peterson LLC; and
- d. Please explain if Renewable Fuels by Peterson LLC does not have the above documentation in its possession.

3. Provide electronic copies of the Documents in (a) below for each of the following batches of renewable fuel. Answer (b) if Renewable Fuels by Peterson LLC does not have the requested Documents in its possession.

Year	Facility Run Number	Batch Number	Batch Production Date	Facility Ticket Number
(b)(4) - CBI				

- a. Product transfer documents, correspondence emails, faxes, and letters relating to the transfer of renewable fuel from Renewable Fuels by Peterson LLC to and from any other Person or Entity; and
- b. Please explain if Renewable Fuels by Peterson LLC does not have the above documentation in its possession.

Appendix D Confidential Business Information

You may assert a business confidentiality claim covering some portion of the information you provide in response to this Information Request for any business information you believe may be entitled to confidential treatment under section 114(c) of the CAA, 42 U.S.C. § 7414(c); Exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4); and 40 C.F.R. Part 2, Subpart B. Under section 114(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Exemption 4 under FOIA protects “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” 5 U.S.C. § 552(b)(4). Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

However, your business confidentiality claims are limited by any confidentiality or emission data determinations the Agency has made through rulemaking for information required to be reported to the Agency under Parts 80 and 1090. In accordance with 40 C.F.R. § 2.301(d), the general CBI rules at 40 C.F.R. §§ 2.201–2.215 do not apply to any information found to be emission data or not otherwise entitled to confidential treatment through rulemaking. *See* 76 Fed. Reg. 30782 (May 26, 2011); 76 Fed. Reg. 73886 (Nov. 29, 2011); 81 Fed. Reg. 89188 (Dec. 9, 2016); 77 Fed. Reg. 48072 (Aug. 13, 2012); 78 Fed. Reg. 71904 (Nov. 29, 2013). If you claim any information already determined to be emission data or not otherwise entitled to confidential treatment through rulemaking, the information may be released without further notice to you in accordance with 40 C.F.R. § 2.301(d).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in section 114(c) of the CAA, 42 U.S.C. § 7414(c), 40 C.F.R. Part 2, Subpart B, and FOIA Exemption 4. **If a business confidentiality claim does not accompany the information submitted to EPA, then EPA may make the information available to the public without further notice to you. *See* 40 C.F.R. § 2.203(c).**

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Information Request. Allegedly confidential portions of otherwise non-confidential information should be clearly identified and may be submitted separately to facilitate identification and handling by the EPA. Please be specific by page (including Bates Stamp, if applicable), paragraph, and sentence when identifying the information subject to your claim. Where your claim does not include all information on a page, please place brackets around, or otherwise designate, the text that you claim to be CBI. Please note that if a page, document, group, or class of documents claimed by you to be CBI contains information which EPA determines is not CBI, your CBI claim regarding that page, document, group, or class of documents may be denied. All confidentiality claims are subject to EPA verification. If EPA reviews your CBI claim(s), EPA may send notice to your business and ask you to submit additional information to substantiate the CBI claim(s). *See* 40 C.F.R. § 2.204(e).

In making its final confidentiality determination, the EPA will consider the relevant substantive criteria in its CBI regulations, under 40 C.F.R. § 2.208(a)–(d), as well as the U.S. Supreme Court’s decision in *Food Marketing Institute v. Argus Leader Media (Argus)*, 139 S. Ct. 2356 (2019), which evaluated the definition of “confidential” as used in Exemption 4 under FOIA. In the *Argus* decision, the Court held that at least where “[1] commercial or financial information is both customarily and actually treated as private by its owner and [2] provided to the government under an assurance of privacy, the information is ‘confidential’ within the meaning of Exemption 4.” *Argus*, 139 S. Ct. at 2366. The definition of “trade secret” under FOIA is limited to “a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.” *Pub. Citizen Health Research Grp. v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983). This definition requires that there be a “direct relationship” between the information at issue and the production process. *Id.*

For each item or class of information that you claim as CBI, please answer the following questions, giving as much detail as possible. The EPA will use your responses to these questions to determine whether the information has been shown to be entitled to confidential treatment:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph and sentence when identifying the information subject to your claim. 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, specify that event. Additionally, explain why the information should be protected for the time period you’ve specified.
2. What measures have you taken to protect the information claimed as confidential from undesired disclosure? 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?
3. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Are 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?
4. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
5. Is there any other explanation you deem relevant to the EPA’s determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

By submitting this information, you are consenting to a limited release of any confidential business information to EPA interns and contractors pursuant to 40 C.F.R. § 2.209(f). The EPA’s interns and contractors are required to sign confidentiality agreements as a requirement of their participation in EPA related matters.