



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

FRL-9968-99-OECA

Production of Confidential Business Information in Pending Enforcement Litigation; Transfer of Information Claimed as Confidential Business Information to the United States Department of Justice and Party to Certain Litigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (“EPA”) is providing notice of disclosure of information which has been submitted to EPA by renewable fuel producers, renewable identification number (“RIN”) generators, third party engineers, obligated parties, and RIN owners that is claimed to be, or has been determined to be, confidential business information (“CBI”), in civil enforcement litigation against NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) and Western Dubuque Biodiesel, LLC. Disclosure is in response to discovery requests from NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) in the litigation styled United States of America v. NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) and Western Dubuque Biodiesel, LLC, Case No. 2:16-cv-1038-LRR, pending in the United States District Court for the Northern District of Iowa (the “NGL Litigation”). The court has entered a Stipulated Protective Order (“Protective Order”) between the United States and NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) that governs the treatment of CBI, including a provision that interested third parties may seek additional protections for their CBI.

DATES: Access by the United States Department of Justice (“DOJ”) to material, including CBI, discussed in this Notice, is ongoing and expected to continue during the NGL Litigation. The

United States does not intend to produce documents containing CBI to NGL until after potentially impacted third parties have an opportunity to inspect the Protective Order. The inspection period will last for fourteen (14) calendar days after publication of this Notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Matthew Kryman, Air Enforcement Division, Office of Civil Enforcement, 1595 Wynkoop Street (8MSU), Denver, CO 80202; telephone number: 303-312-6272; fax number: 303-312-6003; email address: kryman.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

Entities potentially affected by this action include renewable fuel producers, RIN generators, third party engineers, obligated parties, and RIN owners who have submitted information to EPA that is claimed to be, or has been determined to be, CBI. Potentially affected categories of such entities include:

Category	NAICS ¹ Codes	SIC ² Codes	Examples of Potentially Affected Entities
Industry	324110	2911	Petroleum Refineries
Industry	325193	2869	Ethyl alcohol manufacturing
Industry	325199	2869	Other basic organic chemical manufacturing
Industry	424690	5169	Chemical and allied products merchant wholesalers
Industry	424710	5171	Petroleum bulk stations and terminals
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers
Industry	221210	4925	Manufactured gas production and distribution
Industry	454319	5989	Other fuel dealers

¹ North American Industry Classification System (NAICS).

² Standard Industrial Classification (SIC) systemcode.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities who may be impacted by this action. Other types of entities not listed in the table could also be impacted. If you have any questions regarding the applicability of this action,

consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

II. Action Description

The United States has initiated a civil enforcement action alleging that NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) and Western Dubuque Biodiesel, LLC violated Section 211(o) of the Clean Air Act and the Renewable Fuel Standard regulations issued thereunder in connection with the sale and repurchase of biodiesel and RINs in calendar year 2011. The United States settled its claims against Western Dubuque Biodiesel, LLC, and the United States District Court for the Northern District of Iowa granted the motion to enter the amended consent decree on April 11, 2017. The United States' claims against NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) are still pending. Notice is being provided, pursuant to 40 CFR 2.209(d), to inform affected businesses that EPA intends to transmit certain information, which has been submitted by renewable fuel producers, RIN generators, third party engineers, obligated parties, and RIN owners that is claimed to be, or has been determined to be, CBI, to NGL Crude Logistics, LLC (f/k/a Gavilon, LLC) in this enforcement action. The information includes EPA communications with, and information provided by, renewable fuel producers and RIN generators in connection with petitions under 40 CFR 80.1416 and the production of renewable fuel and generation of RINs. The information also includes EPA communications with, and information provided by, obligated parties and RIN owners regarding specific RIN buys, sells, separations, and retirements. Examples of such information may include EPA registration information; information submitted to the EPA Moderated Transaction System (EMTS); EMTS RIN generation, transaction, and activity reports; documents mentioning, referring to, or discussing company fuel production activities or RIN generation activities; and non-public petition information submitted under 40 CFR 80.1416.

The treatment of this information is governed by the Protective Order entered into by the United States and NGL Crude Logistics, LLC. Interested third parties may find the Protective Order in the docket for the NGL Litigation, 2:16-cv-1038-LRR, ECF Document No. 68 (N.D. Iowa). The Protective Order governs the distribution of CBI, limits its use to the NGL Litigation, and provides for its return or destruction at the conclusion of the litigation. It also includes a provision that interested third parties may seek additional protections for their CBI. In accordance with 40 CFR 2.209(c)-(d), DOJ must disclose such information to the extent required to comply with the discovery obligations of the United States in the NGL Litigation, including its obligations under the Protective Order.

Dated: September 25, 2017.

Phillip A. Brooks,

Director,

Air Enforcement Division.

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