



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10



State of Oregon  
Department of  
Environmental  
Quality

APR 14 2017

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Mr. Michael P. Mazza  
President and Registered Agent  
American Petroleum Environmental Services, Inc.  
11535 North Force Avenue  
Portland, Oregon 97217

Re: **Information Request Pursuant to Section 3007 of the Resource Conservation and Recovery Act, Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act, and Oregon Revised Statute 466.195 and ORS 465.250**

Dear Mr. Mazza:

The United States Environmental Protection Agency (“EPA”) and the Oregon Department of Environmental Quality (“ODEQ”) are seeking information to determine your compliance with storage, transport, and disposal requirements, and to collect additional information about materials stored at the American Petroleum Environmental Services, Inc. (“APES”) Force Avenue facility. The EPA is seeking this information pursuant to Section 3007 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6927, and Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9604(e). The ODEQ is seeking this information pursuant to Oregon Revised Statutes (“ORS”) Section 465.250 and ORS 466.195.

You are hereby directed to respond to the information requested using the instructions and definitions provided in Enclosure 1. Enclosure 2 of this letter requires you to provide information concerning Tank 12 at the American Petroleum Environmental Services, Inc. Force Avenue facility. The statements submitted pursuant to this Information Request must be returned under an authorized signature certifying that all statements contained therein are true and accurate to the best of the signatory’s knowledge and belief, as provided in Enclosure 3. Instructions concerning confidential business information are included in Enclosure 1.

Your response to the information requested is due within thirty (30) calendar days of receipt of this letter, unless otherwise specified by the EPA and the ODEQ in the Information Request. A request for additional time must be provided in writing within five (5) calendar days of receipt of this letter, and must state a justification for the delay.

Compliance with this Information Request is required by law. Failure to respond fully and truthfully to this Information Request within thirty (30) calendar days of your receipt of this letter, or to adequately justify such failure to respond, can result in an enforcement action by the EPA pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and Section 104 of CERCLA, 42 U.S.C. § 9604. The EPA and the ODEQ will consider incomplete, ambiguous, or evasive responses as a failure to respond to this Information Request. False, fictitious, and fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001 or Section 3008(d) of RCRA, 42 U.S.C. § 6928(d). The information you provide may be used in EPA and/or ODEQ administrative, civil, or criminal proceedings.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. § 3501, *et seq.*

Please send your response to this Information Request in portable document format ("pdf") via e-mail to Katie McClintock at [mcclintock.katie@epa.gov](mailto:mcclintock.katie@epa.gov) and Audrey O'Brien at [obrien.audrey@deq.state.or.us](mailto:obrien.audrey@deq.state.or.us). Please also mail a copy of your response to:

Katie McClintock, OCE-101  
U.S. Environmental Protection Agency  
1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101

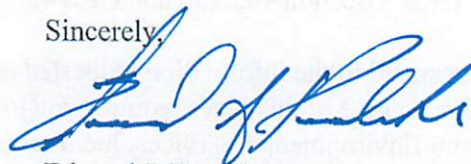
And

Audrey O'Brien  
Oregon Department of Environmental Quality  
700 NE Multnomah Street., Suite #600  
Portland, Oregon 97232

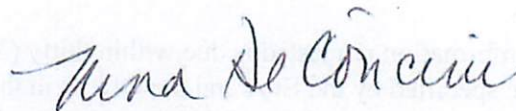
Any legal inquiry should be directed to Lynne Davies at [davies.lynne@epa.gov](mailto:davies.lynne@epa.gov) and Gary Vrooman at [Gary.L.VROOMAN@state.or.us](mailto:Gary.L.VROOMAN@state.or.us)

Thank you for your attention to this matter.

Sincerely,



Edward J. Kowalski  
Director, Office of Compliance and Enforcement  
EPA, Region 10



Nina DeConcini  
Northwest Region Administrator  
Oregon Department Environmental Quality

**Enclosures:**

1. **Instructions and Definitions**
2. **Information Request**
3. **Certification**

## Enclosure 1

### INFORMATION REQUEST AMERICAN PETROLEUM ENVIRONMENTAL SERVICES, INC.

#### I. INSTRUCTIONS

1. Provide Response Within 30 Days. Your response to the information requested is due within thirty (30) calendar days of receipt of this letter, unless otherwise specified by the EPA and ODEQ in this document.
2. Answer Every Question Completely. You are required to provide a separate answer to each question and subpart of a question set forth in this Information Request. Incomplete, evasive, or ambiguous answers shall constitute failure to respond to this Information Request and may subject you to penalties as discussed in the cover letter.
3. Number Each Answer. Number each answer with the corresponding number of the question.
4. Time Period for Information Requested. This information request covers the time period from February 26, 2010 to the present. A response that fails to address this time period is a failure to comply with this Information Request.
5. Provide the Best Information Available. You must provide responses to the best of your ability, even if the information sought was never reduced to writing or if the written documents are no longer available. If necessary, you should seek responsive information from current and former employees and/or agents. Submission of cursory responses when other responsive information is available will be considered non-compliance with this Information Request. If you cannot provide a precise answer to any question, please approximate and state the reason for your inability to be specific.
6. Unavailability of Information. If you are unable to answer a question in a detailed and complete manner, or if you are unable to provide any of the information or documentation requested, indicate the reason for your inability to do so. If you have reason to believe there is an individual who is not a current employee or agent who may be able to provide a response to any question, state that person's name, last known address, and telephone number. Also include the reasons for your belief. If a document is unavailable, please state the reason. In addition, please provide any identifying information you have, for example, author, date, and subject matter.
7. Submit Documents with Labels Keyed to the Question. For each document produced in response to this Information Request, indicate on the document (or in some other reasonable manner) the number of the question to which it responds. If anything is deleted from a document produced in response to this Information Request, state the reason for and the subject matter of the deletion.
8. Continuing Obligation to Provide and/or to Correct Information. If additional information or documents responsive to this Information Request become known or available to you after you respond to this Information Request, the EPA and ODEQ hereby requests pursuant to Section 3007 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927, Section

104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9604, and Oregon Revised Statutes ("ORS") Section 466.195 and ORS 465.250, respectively, that you supplement your response to the EPA and ODEQ. Failure to supplement your response within thirty (30) days of discovering such responsive information may subject you to an enforcement action. If at any time after the submission of this response, you discover or believe that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA and ODEQ of this fact as soon as possible and provide the EPA and ODEQ with a corrected response. If any part of the response to this Information Request is found to be false, the signatory to the response and the company may be subject to criminal prosecution.

9. Complete the Enclosed Declaration. The information provided to the EPA and ODEQ must be accompanied by a certification from American Petroleum Environmental Services, Inc. signed by a responsible corporate official, that the information being provided is true, accurate, and complete. (See Enclosure 3)
10. Confidential Information.

**For responses submitted to EPA:** The information requested herein must be provided even though American Petroleum Environmental Services, Inc. may contend that it includes possibly confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), Section 104(e)(7), 42 U.S.C. § 9604(e)(7) and 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." The EPA will disclose information covered by such a claim only to the extent, and only by means, of the procedures set forth in the statutes and regulations named above. If no such claim accompanies the information when the EPA receives it, it may be made available to the public by the EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. See also 41 Fed. Reg. 36,902, Sept. 1, 1976.

**For responses submitted to ODEQ:** You may, if you desire, assert a business confidentiality claim covering part or all of the information submitted pursuant to ORS 192.501(2) and Oregon Administrative Rule (OAR) 340-214-0130 or OAR 340-100-0003. All information claimed as confidential should be clearly marked with the request for exemption from disclosure, including marking as "confidential" or "trade secret" each page of a multi-page document that you believe is confidential, clearly distinguishing between material exempt from disclosure and non-exempt material, and, if possible, placing exempt confidential material on separate pages from non-exempt material.

For a writing to be considered exempt from disclosure as a "trade secret," it must not be patented, it must be known only to a limited number of individuals within the company who have made efforts to maintain the secrecy of the information, the information must derive actual or potential economic value from not being disclosed to other persons, the material must give its users the

chance to obtain a business advantage over competitors not having the information, and it must not be emissions data.

Unless you make a claim at the time that you submit the information in the manner described in OAR 340-214-0130 or OAR 340-100-0003, it may be available to the public by ODEQ without further notice to you. The information covered by such a claim will be disclosed by ODEQ only to the extent and by the procedures set forth in ORS 192.410 through ORS 192.505. You should read the above cited statutes and regulations carefully before asserting a business confidentiality claim because certain categories of information are not entitled to confidential treatment.

11. Personal Privacy Information. Personnel, medical, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from your responses; included on a separate sheet(s); and marked as "Personal Privacy Information." You should note however, that unless prohibited by law, the EPA and ODEQ may disclose this information to the general public without further notice to you.
12. Objections to Questions. While you may indicate that you object to certain questions in this Information Request, you must provide responsive information notwithstanding those objections. To object without providing responsive information may subject you to the penalties discussed in the cover letter.
13. Claims of Privilege. If you claim that an entire document responsive to this Information Request is a communication for which you assert that a privilege exists, identify the document and provide the basis for asserting the privilege. If you assert that a privilege exists for a portion of a document, provide the portion of the document for which you are not asserting a privilege; identify the portion of the document for which you are asserting the privilege; and provide the basis for the assertion. Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to the Information Request must be disclosed in your response.

## II. DEFINITIONS

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in RCRA, 42 U.S.C. §§ 6901 *et seq.*, CERCLA, 42 U.S.C. §§ 9601 *et seq.*, or 40 C.F.R. Parts 260-271, or in an applicable authorized state regulation, in which case such statutory or regulatory definitions shall apply.

The following definitions shall apply to the following words as they appear in this enclosure.

1. The terms "document" and "documents" shall mean any method of recording, storing, or transmitting information. "Document" shall include but not be limited to:
  - (a) writing of any kind, formal or informal, including electronic media and correspondence, whether or not wholly or partially in handwriting; and
  - (b) Enclosures or enclosures to any document as well as any document referred to in any other document.

2. The term “identify” or “provide the identity of” means, with respect to an individual, to set forth: (a) the person’s full name; (b) the present or last known addresses and telephone numbers; and (c) the present or last known employer (including the full name and address), with job title, position, or business.
3. The term “identify” or “provide the identity of” means, with respect to a trust, firm, corporation, partnership, business trust, government office or division, sole proprietorship, or other entity, to set forth: (a) the entity’s full name; (b) the complete street address; (c) the legal form (e.g., corporation, partnership); (d) the state under whose laws the entity is organized; and (e) a brief description of its business.
4. The term “identify” or “provide the identity of” means, with respect to a document, to provide: (a) the document’s customary business description (e.g., letter, invoice); (b) its date; (c) its number, if any (e.g., invoice or purchase order number); (d) the identity of the author, the address, and the addressee and/or recipient; and (e) a summary of the substance or the subject matter.
5. The term “person” means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, business trust, association, state, municipality, commission, political subdivision of a state, or an interstate body.
6. The term “you” shall mean American Petroleum Environmental Services, Inc.
7. The term “American Petroleum Environmental Services, Inc.” shall mean the addressee of this Information Request, any and all of its subsidiaries and affiliates, the addressee’s officers, managers, employees, contractors, trustees, successors, assigns, and agents, and any predecessor or successor corporations or companies.

## **Enclosure 2**

### **INFORMATION REQUEST AMERICAN PETROLEUM ENVIRONMENTAL SERVICES, INC.**

#### **Requests**

1. Provide a complete copy of the purchase-sale agreement between you and the Oil Re-Refining Company, Inc. (hereinafter, "ORRCO") effectuating the sale of the facility located at 11535 North Force Avenue, Portland, Oregon (hereinafter, "Force Avenue facility").
2. Provide all documents obtained from ORRCO concerning the contents, source, or regulatory status of Tank 12 at the Force Avenue facility, including but not limited to any documents concerning the handling, transport, treatment, storage or disposal of the contents of Tank 12.
3. Provide all documents concerning the transfer of ownership or operation of the Force Avenue facility from American Recyclers to American Petroleum Environmental Services, Inc., including but not limited to any documents concerning the handling, transport, treatment, storage or disposal of the contents of Tank 12.
4. Provide all sampling data for Tank 12 at the Force Avenue facility and all other documents describing or relating to the source or presence of PCBs or hazardous waste in Tank 12, including but not limited to data or documents relating to waste constituents that may cause the contents of Tank 12 to exhibit any hazardous waste characteristic.
5. Provide all documents related to the transportation and/or disposal of the contents of Tank 12.
6. Provide all documents concerning the transfer of any used oil, solid waste, wastewater, sludge or other material into or out of Tank 12.

#### **End of Requests**



**Enclosure 3**

**INFORMATION REQUEST  
AMERICAN PETROLEUM ENVIRONMENTAL SERVICES, INC.**

The following form of certification must accompany all information submitted by American Petroleum Environmental Services, Inc. in response to the Information Request.

**CERTIFICATION**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (Response to EPA and ODEQ Information Request) and all documents submitted herewith; that, to the best of my knowledge and belief, the submitted information is true, accurate, and complete; and that all documents submitted herewith are complete and authentic, unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

Executed on \_\_\_\_\_, 20\_\_

Signature

\_\_\_\_\_