UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

AUG 16 2018

CERTIFIED MAIL 7015 0640 0001 1121 8472
RETURN RECEIPT REQUESTED

IN THE MATTER OF: Apex Integration, Inc

Apex Integration, Inc
1449 W. Orange Ave, Suite A
Orange, CA 92868

ATTENTION: Masaki Nakayama, Manager

Request for Information Under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)

The United States Environmental Protection Agency ("EPA") hereby requires Apex Integration, Inc ("APEXi") to submit certain information as part of an EPA investigation to determine APEXi's compliance with Section 203 of the Clean Air Act ("CAA"), 42 U.S.C. § 7522, and the applicable regulations at 40 C.F.R. Parts 85, 86, and 1068. Examples of vehicles regulated under these Parts include, but are not limited to, light-duty gasoline vehicles. Appendix A provides definitions for some of the terms used in this request, Appendix B provides instructions for your responses to this request, and Appendix C specifies the information that you must submit.

The EPA is issuing this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA to provide information necessary to determine whether the person has acted in compliance with these requirements and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Manager of Region 9's Air & TRI Section, Enforcement Division.

You must submit responses to this Request for Information within thirty (30) calendar days from the date you receive this letter. Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to this Request for Information by this date, you must contact Matt Salazar at (415) 972-3982 to request an extension. Any such request must explain why an extension is necessary and include a proposed timeline for providing the requested information. The EPA will review your request and may extend the time in which your response must be provided to some or all of the questions.

Failure to provide the required information may result in the initiation of a civil action pursuant to Section 205(b) of the CAA, 42 U.S.C. § 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. It is important that your responses be clear, accurate, organized, and complete. We will regard submitted information that is

misleading, false, incomplete, or submitted without regard to its accuracy as a violation of the CAA and/or criminal statutes. We may use any information submitted in response to this Request for Information in an administrative, civil, or criminal action.

Finally, you must submit all requested information under an authorized signature with the following certification (provided in Appendix D):

> 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. 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.

You are entitled to assert a business confidentiality claim covering all or part of the information you submit in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information ("CBI") regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions 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 CBI claim. Appendix E of this Request for Information specifies the assertion and substantiation requirements for business confidentiality claims. The EPA may, without further notice, provide the public with any information not subject to a CBI claim.

Please submit all requested information, via electronic mail or express delivery, to:

Matt Salazar, P.E., Manager, Air Enforcement Office
Enforcement Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne St. (ENF-2-1)
San Francisco, CA 94105

Any questions concerning this Request for Information should be directed to me at (415) 972-3982 or salazar.matt@epa.gov or have your attorney contact Ryan Bickmore in the Office of Regional Counsel at (415) 972-3058 or bickmore.ryan@epa.gov.

[redacted]

Matt Salazar, P.E., Manager
Air Enforcement Office
Enforcement Division
EPA Region 9 – San Francisco

Enclosures

Appendix A

Definitions

1. All terms used in this Request for Information will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle Regulations found at 40 C.F.R. Parts 85, 86, and 1068.

2. The terms "affiliate" or "affiliated" are used to indicate a relationship to a specified person, and mean any person 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 with such person (other than entities serving solely as customs brokers).

3. The terms "document" and "documents" means any object that records, stores, or presents information, and includes, without limitation, email, 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 EPA, with all necessary documentation and support. All documents in hard copy shall also include attachments to or enclosures with any document.

4. The term "electronic control module" or "ECM" means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions.

5. The term "Emission Related Parts" means those parts installed on motor vehicles for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance as defined in 40 C.F.R. § 85.2102 (including but not limited to a catalytic converter, a turbocharger, an exhaust gas recirculation, a diesel particulate filter, a secondary catalytic reactor, a fuel injector, a selective catalytic reduction, onboard diagnostics, and electronic control).

6. The term "end-user" means the person who ultimately uses or is intended to ultimately use a product.

7. The term "onboard diagnostics" or "OBD" includes systems which monitor components that can affect the emission performance of the vehicle to ensure that the vehicle remains as clean as possible over its entire life, and assists repair technicians in diagnosing and fixing problems with the computerized engine controls. If a problem is detected, the OBD system illuminates a warning lamp on the vehicle instrument panel to alert the driver.

8. The term "person" includes an individual, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal entity, organization or association.

9. The terms "you", "your", and "APEXi" includes Apex Integration, Inc and any affiliates, predecessors, successors, and assigns.

Appendix B

Instructions for Responses

1. Provide responses to this Request for Information in English, in written document form, and in electronic form using spreadsheet or word processing software (e.g., Word or Excel) or in PDF format.

2. This Request for Information 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 Request for Information.

3. Where documents or information necessary for a response is not in your possession, custody or control, indicate in your response why such documents or information is not available or in your possession, custody or control, and identify any source that either possesses or is likely to possess such information.

4. All submitted documents should be copies and not original documents.

5. You must maintain an unaltered and complete copy of your website as it exists at the time this letter is received for a period of two years. This includes all pages, graphical elements, and text displayed on the website. You must provide this information in readable electronic format to EPA within ten days upon request.

Appendix C

Request for Information

Apex Integration, Inc ("APEXi" or "you") must submit the following information to the United States Environmental Protection Agency pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding the manufacture, sale, or offering for sale of certain aftermarket parts and products.

1. Identify each exhaust system or exhaust system component ("component"), including product kits such as Power Packages, offered for sale by APEXi during the period from January 1, 2017, through the date of this letter that enables the customer or end-user to bypass, defeat, or otherwise render inoperative a motor vehicle Emission Related Part. Examples of these types of components include, but are not limited to, straight pipes, down pipes, and test pipes. Such components may include, but are not limited to, those described on your website at www.apexi-usa.com and all related pages.

   Be advised that this request pertains to all components described herein that make it possible for customers or end-users to bypass Emission Related Parts whether sold individually or as part of a kit, and regardless of any claims made by APEXi that a particular component is for race use only, or any other similar claims.

2. For each component identified in response to Question 1, provide the following information:

   a. State the APEXi part number and identifying name, the part number and identifying name from the manufacturer (if different), and the vehicle applications by make, model, and year.

   b. Describe the function of the component and explain how it enables the customer or end-user to bypass, defeat, or otherwise render inoperative an Emission Related Part.

   c. Provide copies of the technical documentation for each component, including, but not limited to, product manuals, technical specifications, and installation and operating instructions.

   d. Indicate whether the component is accompanied by the following disclaimers, statements, or other similar language in any documentation, marketing materials, advertisements, websites, or other media:

      - "Off-road / race use only"
      - "Not legal for sale or use on emission controlled Motor Vehicles"

      Provide references to all materials containing such statements.

   e. If APEXi has recommended that the component be used for racing or off-road use only, describe the mechanisms, if any, that APEXi has implemented to ensure that the component is only used for such purposes.

   f. State the quantity that was sold by APEXi to customers with shipping addresses in the United States from January 1, 2017, through the date of this letter.

g. Provide copies of receipts for each component sold by APEXi to customers with shipping addresses in the United States from January 1, 2017, through the date of this letter.

h. State the quantity that was sold by APEXi to wholesalers, retailers, distributors, or authorized dealers from January 1, 2017, through the date of this letter.

i. Provide copies of invoices or receipts for each component sold by APEXi to all wholesalers, retailers, distributors, or authorized dealers from January 1, 2017, through the date of this letter.

3. Identify each programmer, module, tuner, ECM calibration tool, flash tool, or engine management product (collectively, "EM products") offered for sale by APEXi during the period from January 1, 2017, through the date of this letter. Such EM products may include, but are not limited to, the Power FC Tuner and those identified on your website at www.apexi-usa.com and all related pages.

   Be advised that this Request for Information pertains to all EM products described herein regardless of any claims made by APEXi that a particular EM product is for race use only, or any other similar claims.

4. For each EM product identified in response to Question 3, provide the following information:

   a. Indicate the APEXi product number and identifying name, the product number and identifying name from the manufacturer of the hardware (if different), and the product's applications by vehicle type, make, model, and year.

   b. Indicate whether the EM product is capable of suppressing or preventing the occurrence of vehicle diagnostic trouble codes, or using any other means to interfere with the proper functioning of the vehicle's on-board diagnostic system to detect and report a malfunctioning, non-functioning, or missing Emission Related Part.

   c. Indicate whether the EM product is adjustable (i.e., end-users can make changes to parameters such as air-fuel ratio) or locked (i.e., end-users can only use pre-loaded tunes or tunes subsequently purchased or acquired from the manufacturer or other third parties).

   d. Provide copies of the technical specifications for each EM product, including, but not limited to, product manuals, technical specifications, and installation and operating instructions.

   e. Indicate whether the EM product is described by APEXi in any documentation, marketing materials, advertisements, websites, or other media with the following statement or similar language:

      - "Off-road / race use only"
      - "Not legal for sale or use on emission controlled Motor Vehicles"

      Provide references to all materials containing such statements.

f. If APEXi has recommended that the EM product be used for racing only, describe the mechanisms, if any, that APEXi has implemented to ensure that the EM product is only used for such purposes.

g. State the quantity that was sold by APEXi to customers in the United Stated between January 1, 2017, through the date of this letter.

h. Provide copies of receipts for each EM product sold by APEXi to customers with shipping addresses in the United States from January 1, 2017, through the date of this letter.

i. State the quantity that was sold by APEXi to all wholesalers, retailer, distributors, or authorized dealers from January 1, 2017, through the date of this letter.

j. Provide copies of invoices or receipts for each component sold by APEXi to all wholesalers, retailers, distributors, or authorized dealers from January 1, 2017, through the date of this letter.

5. For each EM product identified in response to Question 3, indicate whether you submitted an application for an Executive Order to the California Air Resources Board and provide a copy of the application for each EM product. State whether each EM product received an Executive Order exempting the EM product from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the EM product received an Executive Order, provide the Executive Order number and state whether the California Air Resources Board required you to change the EM product or application to receive approval.

6. For each EM product identified in response to Question 3 for which an application for an Executive Order from the California Air Resources Board has not been submitted, state whether any tests have been conducted that measure the impact of the EM product on motor vehicle air pollutant emissions, or that measure the impact of the EM product on a vehicle's emission control devices or elements of design. For each such test, provide a description of the test (including identification of the EM product, vehicle, and the test protocol), specify the date and location of the test, specify who conducted the test, and provide a copy of the test results.

7. Describe the organizational structure of Apex Integration, Inc, and provide an organizational chart that depicts the parent and/or subsidiary companies affiliated with Apex Integration, Inc.

8. Provide a copy of your articles of incorporation and by-laws.

9. Identify your current net worth and annual revenue for the past calendar or fiscal year.

10. Identify each person responsible for responding to this Request for Information, including their title, and the request(s) to which they responded.

Appendix D

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Request for Information, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by _____ [corporate affiliation] to provide the above information on its behalf to EPA.

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. 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.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____

Appendix E

Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, subpart B. Under Section 208(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. 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." See 40 C.F.R. § 2.201(e).

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 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

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 Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. See 40 C.F.R. §§ 2.208 (a)-(d). Emission 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 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Request for Information, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following requests with respect to any information or document for which you assert a claim of business confidentiality:

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.

2. 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 have specified.

3. 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?

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 disclosure of the information is likely to result in 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 effect. How could your competitors make use of this information to your detriment?

7. 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 requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response to this Request for Information if you have claimed any information as business confidential. See 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will

construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Matt Salazar, P.E., Manager
Air Enforcement Office
Enforcement Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (ENF-2-1)
San Francisco, CA 94105

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.