UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Diesel Innovations Inc.
6529 Cunningham Road, Suite 2101
Houston, Texas 77041

ATTENTION:

David Lott, President

Request to Provide Information Pursuant to the Clean Air Act

The U.S. Environmental Protection Agency is requiring Diesel Innovations Inc. (DI or you) to submit certain information about your operations. Appendix A provides the instructions needed to answer this information request, including instructions for electronic submissions. Appendix B specifies the information that you must submit. You must send this information to us within **thirty (30) calendar days** after you receive this request.

We are issuing this information request under Section 208(a) of the Clean Air Act (CAA), 42 U.S.C. § 7542(a). Section 208(a) authorizes the Administrator of EPA to require the submission of information from any person who is subject to the emission standards for moving sources under Parts A and C of Subchapter II of the CAA, 42 U.S.C. §§ 7521-7554; 7581-7590. The Administrator has delegated this authority to the Director of the Air and Radiation Division, Region 5.

DI owns and operates a full-service motor vehicle repair shop that sells motor vehicle parts and components. We are requesting this information to determine whether DI is complying with Section 203 of the CAA and the regulations promulgated under Subchapter II of the CAA, 42 U.S.C. §§ 7521-7590.

DI must send all required information to:

> Attn: Compliance Tracker, AE-18J
> Air Enforcement and Compliance Assurance Branch
> U.S. Environmental Protection Agency
> Region 5
> 77 W. Jackson Boulevard
> Chicago, Illinois 60604

DI must submit all required 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. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to 18 U.S.C. §§ 1001 and 1341.

As explained more fully in Appendix C, you may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice. You should be aware, moreover, that pursuant to Section 208(c) of the CAA and 40 C.F.R. § 2.301(a) and (f), emissions data, standards and limitations are not entitled to confidential treatment and shall be made available to the public notwithstanding any assertion of a business confidentiality claim. Appendix C provides additional information regarding the meaning and scope of the term "emissions data."

This information 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.

We may use any information submitted in response to this request in an administrative, civil or criminal action.

Failure to comply fully with this information request may subject DI to an enforcement action under Section 205 of the CAA, 42 U.S.C. § 7524.

You should direct any questions about this information request to Ethan Chatfield by email at chatfield.ethan@epa.gov or by phone at 312-886-5112.

2/8/18
Date

Edward Nam
Director
Air and Radiation Division

Appendix A

When providing the information requested in Appendix B, use the following instructions and definitions.

Instructions

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B.

2. Precede each answer with the number of the question to which it corresponds and, at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, each person consulted in the preparation of that response, and each person's title and relationship to DI (e.g., employee, contractor, etc.).

3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.

4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.

5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.

6. If information not known or not available to you as of the date of submission later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify EPA as soon as possible.

Electronic Submissions

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for "image over text" to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.

2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If

Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

3. Provide submission on physical media such as compact disk, flash drive or other similar item.

4. Provide a table of contents for each compact disk or flash drive containing electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. *We recommend the use of electronic file folders organized by question number.* In addition, each compact disk or flash drive should be labeled appropriately (e.g., Company Name, Disk 1 of 4 for Information Request Response, Date of Response).

5. Documents claimed as confidential business information (CBI) must be submitted on separate disks/drives apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix C for designating information as CBI.

6. Certify that the attached files have been scanned for viruses and indicate what program was used.

Definitions

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 applicable mobile source regulations, including those found at 40 C.F.R. Parts 85, 86, 1039, and 1068.

1. The terms "document" and "documents" and "documentation" means any object that records, stores, or presents information, and includes: email; writings; memoranda; contracts; agreements; records; or information of any kind, formal or informal, whether handwritten or typed, whether in computer format, memory, or storage device, or in hardcopy. All documents in hard copy shall also include attachments to or enclosures with any document.

2. The term "Diesel Innovations Inc." or "DI" or "you" or "your" includes, but is not limited to: any assumed business names, agents, representatives, employees, contractors, or other entities that performed work or acted in any way on behalf of, are related to, or acted at the direction of Diesel Innovations Inc.

3. The term "catalysts" refers to systems, such as catalytic converters, that contain parts or chemical elements which increase the rate of a chemical reaction but are not one of the original reactants or final products, i.e., are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless steel housing.

4. The term "diesel particulate filter" or "DPF" refers to an exhaust after-treatment emission

control component that physically traps particulate matter (PM) and removes it from the exhaust stream, typically using a porous ceramic or cordierite substrate or metallic filter.

5. 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. ECM programming relies on calculations and tables of information to provide appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. ECMs may be incorporated separately with multiple units or may be combined into a single unit.

6. The term "element of design" means any control system (*e.g.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. § 86.094-2.

7. The term "emission control component" means any part or component and its associated fluids, sensors, signals, components, and control systems that function primarily for emission control and whose deviation from original manufacturer specifications and/or failure may significantly increase emissions.

8. The term "exhaust gas recirculation" or "EGR" refers to an emission control component that directs a portion of engine exhaust back into the engine's combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (NO_x). The EGR system may include a cooler, which cools the recirculated exhaust.

9. The term "onboard diagnostics" or "OBD" refers to an ECM that monitors emission control and emission-related components and systems along with certain engine components, such as the fuel delivery system and the engine control module. When the OBD detects a malfunction or deterioration that could affect emissions, it illuminates a malfunction indicator light (MIL) and produces diagnostic trouble codes (DTC) to aid in repair.

10. The term "part or component" includes any part or component intended for use with, or as part of, a motor vehicle or motor vehicle engine (*e.g.*, ECM, element of design, calibration map, tuner, or software that is installed on or designed for use in such vehicles or engines).

11. The term "product" or "products" shall mean any part or component or other item(s), including, but not limited to, engine parts, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software coding, or devices, that are manufactured (*i.e.*, created, written, programmed, fabricated, produced, assembled or modified), purchased, imported, distributed, offered for sale, sold, and/or installed by DI.

12. The term "selective catalytic reduction" or "SCR" refers to an emission control component that includes systems (the diesel exhaust fluid (DEF) tank, urea quality

sensor, DEF injection system, SCR catalyst(s), and other associated sensors), which injects a reductant, such as DEF, into the exhaust stream where it reacts with catalysts to convert NO_x emissions to nitrogen gas (N_2) and water (H_2O).

13. The term "tuner" means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), code, or other content stored within or used by an ECM.

Appendix B

Information You Are Required to Submit to EPA

DI must submit the following information pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542(a), regarding services offered and/or products that DI either manufactured, purchased, imported, distributed, offered for sale, sold, or installed from **January 1, 2015 to the date of this request**:

1. List, in an electronic, unlocked spreadsheet, by product or service number and identifying product or service name, each product (as defined in Appendix A: Definitions, Paragraph No. 11) or service that:

   (a) Changes, affects, modifies, bypasses, or renders inoperative any emission control component, element of design, or emission related part including, but not limited to: the DPF system; EGR system; catalyst system; OBD; SCR; or sensors, signals, or records related to such systems;

   (b) Simulates the operation of any emission control component and/or related parts including, but not limited to: the DPF system; EGR system; catalyst; OBD; SCR; or sensors, signals, or records related to these systems (e.g., a tuner); and/or

   (c) Can be programed to modify engine operating parameters, such as: injection timing; fuel pressure; and/or pulse width; emission control parameters; or OBD functions including, but not limited to, those parameters sensed or controlled by the ECM.

2. For each product or service identified in response to Request 1, above, provide the following information in a separate electronic, unlocked spreadsheet:

   (a) The product number;

   (b) The identifying product name;

   (c) The product manufacturer's name and address;

   (d) The product supplier's name and address (if different than manufacturer's);

   (e) The type of vehicle for which the product is designed, used, or sold, including the: make(s); model(s); model year(s); engine type(s); and expected use(s) (e.g., agriculture, construction equipment, on-road diesel, etc.);

   (f) A description of what the product does and how the product operates; and

   (g) The quantity of product that was manufactured, produced, purchased, and/or imported by you each calendar year (or partial year if full year not yet available);

(h) The quantity of product that was sold by you, by calendar year (or partial year if full year not yet available);

(i) The quantity of product that was distributed by you, by calendar year (or partial year if full year not yet available);

(j) The quantity of product that was installed by you, by calendar year (or partial year if full year not yet available); and

(k) Identify whether the product has been emission tested and/or certified and provide copies of any such testing results/certification.

3. For each product or service identified in response to Request 1, above, provide the following, organized by calendar year:

(a) Copies of your advertisements to sell, distribute, or install the product, including advertisements on websites and in other media;

(b) Copies of any installation or operation instructions, guides, or manuals for the product;

(c) Copies of all receipts or invoices for all products purchased or imported by you;

(d) Copies of all receipts or invoices for all products sold or distributed by you; and

(e) Copies of all receipts or invoices for all products installed by you.

4. For each product and service identified in response to Request 1, above, provide any documentation that DI collected from customers to verify or ensure that the vehicles receiving the product and/or services are not for on-road use and are operated only off of public roads.

5. For each product and service identified in response to Request 1, above, provide copies of any waivers, notices, releases of liability, assumption of risk and/or indemnity agreements, or similar documents, signed by DI, its customers, and/or any manufacturers. This includes any documents which relate to knowledge, liability and/or risk associated with the product or service and removal and/or modification of emission control components and/or engine parameters (as described in Request 1 (a), (b), and (c)). These documents are often, but not always, referred to as "liability waivers."

6. For each product identified in response to Request 1, above, state whether you or any other entity conducted tests measuring emissions of hydrocarbons (HC), carbon monoxide (CO), nitrogen oxide (NO_x), and/or particulate matter (PM), including tests that measure the impact of the product on a vehicle's emission control components or elements of design. For each test, provide the following:

(a) A description of the test, including: identification of the component and vehicle; U.S. EPA engine family; name of the vehicle; test equipment; test protocols; and calibration procedures; and

(b) A copy of the test report, including: the date and location of the test; the name and position of the person(s) who conducted the test; and the test results.

7. For each product identified in response to Request 1, above, state whether you or the manufacturer submitted an application for an Executive Order to the California Air Resources Board, and if so, provide a copy of the application for each product. Additionally, state whether each component received an Executive Order exempting the component from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the component received an Executive Order, provide the Executive Order number and state whether the California Air Resources Board required you to change the component or application in order to receive approval.

8. Provide the name and address of each location where you have stocked and/or are currently stocking any of the products identified in response to Request 1. The term "stocked" or "stocking" shall mean the temporary or long-term storage of materials for potential use, sale, or delivery. This definition includes, but is not limited to, the storage of materials within warehouses, vehicles, and/or shipping containers.

Appendix C

Confidential Business and Personal Privacy Information

Assertion Requirements

You may assert a business confidentiality claim covering any parts of the information requested in the attached Appendix B, as provided in 40 C.F.R. § 2.203(b).

Emission data provided under Section 208 of the CAA, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2.

"Emission data" means, with reference to any source of emissions of any substance into the air:

> 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 the source), or any combination of the foregoing;
>
> 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 operation of the source); and
>
> A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. § 2.301(a)(2)(i)(A), (B) and (C).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as "trade secret" or "proprietary" or "company confidential" and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 208(c) of the CAA and 40 C.F.R. Part 2. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. EPA will construe the failure to furnish a confidentiality claim with your response to the information request as a waiver of that claim, and the information may be made available to the public without further notice to you.

Determining Whether the Information Is Entitled to Confidential Treatment

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. § 2.208, which provides in part that you must satisfactorily show: that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, that the information is not and has not been reasonably obtainable by legitimate means without your consent and that disclosure of the information is likely to cause substantial harm to your business's competitive position.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking that you support your confidential business information (CBI) claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential by page, paragraph and sentence. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much detail as possible:

1. 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 special event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that 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 number 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 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 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 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 why 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?

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. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination. In substantiating your CBI claim(s), you must bracket all text so claimed and mark it "CBI." Information so designated will be disclosed by EPA only to the extent allowed by and by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

Personal Privacy Information

Please segregate any personnel, medical and similar files from your responses and include that information on a separate sheet(s) marked as "Personal Privacy Information." Disclosure of such information to the general public may constitute an invasion of privacy.

CERTIFICATE OF MAILING

I certify that I sent a Request to Provide Information Pursuant to the Clean Air Act by Certified Mail, Return Receipt Requested, to:

David Lott, President
Diesel Innovations
6529 Cunningham Road, Suite 2101
Houston, Texas 77041

On the 9th day of February 2018.

Kathy Jones, Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7015 0640 0004 5965 5816