

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



OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

VIA ELECTRONIC MAIL

ATTENTION: Mr. Jack Lyon, President
Alex Lyon & Son Auctioneers
Busnell, FL 33513
jon@lyonauction.com and Admin@lyonauction.com

**Request for Information Under Sections 114(a)(1) and 208(a) of the Clean Air Act,
42 U.S.C. §§ 7414(a)(1) and 7542(a)**

The United States Environmental Protection Agency (“EPA”) hereby requires Alex Lyon & Son Auctioneers, and any of its parent organizations, affiliates, predecessors, successors, and assignees (“Alex Lyon” or “You”), to submit certain information as part of an EPA investigation to determine Alex Lyon’s or Your clients’ 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 1039 and 1068. Examples of equipment regulated under these Parts include, but are not limited to excavators, tractors, bulldozers, loaders, mining dump trucks and cherry pickers. Appendix A provides definitions, Appendix B provides instructions for your responses to this request, and Appendix C specifies the information that you must submit.

The EPA issues this Request for Information under Sections 114(a)(1) and 208(a) of the CAA, 42 U.S.C. §§ 7414(a)(1) and 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 the CAA’s requirements pertaining to vehicles and engines, including, but not limited to Section 203 and applicable regulations of 40 C.F.R. Parts 1039 and 1068. Section 114(a)(1) authorizes the Administrator to require any person subject to the CAA’s requirements these requirements and the regulations promulgated thereunder, other than manufacturers subject to sections 7525(c) or 7542 with respect to a provision of Title II, to provide information reasonably required to carry out the CAA’s provisions. The Administrator has delegated this authority to the undersigned Chief of the Air Enforcement Division in the office of Civil Enforcement of the Office or Enforcement and Compliance Assurance.

Appendix A provides definitions. Appendix B provides instructions for Your responses to this Request for Information. Appendix C specifies the information that You must provide. Appendix D provides information about asserting a claim of confidentiality over information You provide in response to this Request for Information. Appendix E contains a form with which a person authorized by Alex Lyon to provide responses to this Request for Information to certify the truth and completeness of the responses. Appendix F is an Excel workbook provided by EPA to organize Your responses to Requests 1 and 2 in Appendix C.

You must submit complete responses to this Request for Information to EPA representative by no later than **November 20, 2023**. Please submit the requested information electronically. You may do so via email to Mario Jorquera, Environmental Engineer at Jorquera.Mario@epa.gov. Please note that the EPA email server will allow attachments up to 20 MB. Alternatively, you may want to provide documents in response to this Request for Information by way of a secure file sharing site. Please let Mr. Jorquera know how you want to proceed with submitting Your response.

Please carefully review the instructions, definitions, and specific requests as you prepare your response. If you anticipate being unable to fully respond to the Request for Information by this date, you must contact Mr. Jorquera at (202) 564-1079 or Jorquera.Mario@epa.gov by **October 27, 2023** to request an extension. Any such request should be made in writing as soon as possible after receipt of this Request for Information and must explain why an extension is necessary and include a proposed timeline for providing the requested information. If timely submitted, 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 requested information may result in a civil action pursuant to Sections 113(a)(3) and 205(b) of the CAA, 42 U.S.C. §§ 7413(a)(3) and 7524(b). Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries and penalties. Pursuant to Sections 114, 208, and 307 of the CAA, 42 U.S.C. §§ 7414(a)(1), 7542(a)–(b), and 7607(a), EPA may request additional information, inspections, or depositions. It is important that Your responses be clear, accurate, organized, and complete. EPA will regard any information that is misleading, false, incomplete, or provided without regard to its accuracy as a violation of the CAA and/or criminal statutes.

Failure to provide the requested 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. Pursuant to Sections 208 and 307 of the CAA, 42 U.S.C. §§ 7542(a)–(b), 7607(a), EPA may request additional information, inspections, or depositions. It is important that your responses be clear, accurate, organized, and complete. We will regard any 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 Information Request in an administrative, civil, or criminal action.

You must provide all requested information under an authorized signature with a properly executed Statement of Certification, as provided in Appendix E.

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 accord 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 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 CBI claim. Appendix D of this Request for Information specifies the assertion requirements for business confidentiality claims. EPA may, without further notice, provide the public with any information not subject to a CBI claim.

EPA may use any information provided in response to this Request for Information in an administrative, civil, or criminal action.

Any questions concerning this Information Request should be directed to Mr. Jorquera, or your counsel may contact me at (202) 564-8894 or palermo.mark@epa.gov.

**MARK
PALERMO**

Digitally signed by
MARK PALERMO
Date: 2023.10.13
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Mark J. Palermo
Chief, Vehicle and Engine Enforcement Branch
Air Enforcement Division
Office of Civil Enforcement

Appendix A

Definitions

All terms used in this Information Request will have their ordinary meaning unless such terms are defined below or in the CAA, 42 U.S.C. §§ 7401 et seq., or the Motor Vehicle Regulations found at 40 C.F.R. Parts 85, 86, 1039, and 1068, in which case they shall have their meanings as defined therein.

1. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
2. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association. A reference to any entity by name includes the entity and any of the entity’s affiliated organizations,¹ predecessors, successors, and assignees.
3. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

¹ See Definition 5, below.

4. The terms “You,” “Your,” and “Alex Lyon” means Alex Lyon & Son Auctioneers, and any affiliates, predecessors, successors, and assignees.
5. The term “affiliated organization” means any organization or entity associated with another entity as an agent, parent organization, predecessor corporation, subsidiary organization, or any organization, or entity acting in lieu of another entity.
6. The term “owner” means the entity or entities who have brought a piece of equipment to your facility for the purpose of having You manage its sale at auction.
7. The term “buyer” means the entity that is the winning bidder for a piece of equipment.
8. The term “importer” means the entity who has obtained a piece of equipment abroad and brought it in for delivery to your facility for the purpose of selling it at auction.

Appendix B

Instructions for Responses

1. Provide a complete, detailed response, in English, to each Request in Appendix C below. Appendix F consists of an Excel workbook in which You are requested to organize Your responses to Requests 1 and 2.
2. If a given spreadsheet response field requested does not apply or is not available, list “n/a” for the corresponding cell.
3. This Request for Information is a continuing request. You must promptly supplement Your response to any request in Appendix C 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 Request.
4. For each answer, provide the number of the request to which it responds and identify each person who provided information that was used to prepare that answer. For each document produced, provide the number of the request to which it responds.
5. When a response is provided in the form of a number, specify the units of measure corresponding to the number.
6. 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 are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
7. Where a request allows or requires documents to be provided in response, provide all documents electronically in a folder specific to that request and labeled with the number of the request. Follow any other formatting or naming conventions specified by the request. All submitted documents should be copies and not original documents.
8. Where You have previously submitted information to EPA that is also the subject of the Request for Information, re-submit that information in accord with these instructions. (Appendix B). Identify the material that was previously provided, the date on which it was provided, how the information was provided (*e.g.*, electronically, fax, mail), and the individual at EPA to whom it was provided.
9. Provide Your response to this Request for Information in electronic form. All responsive documents and materials (*e.g.*, copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable unlocked format, number stamped in sequential order (*e.g.*, BATES stamped). Where spreadsheets are responsive to a Request, produce them in unlocked electronic .xlxs spreadsheet format (locked files are unacceptable).

Appendix C

Information Request

Provide the following information to EPA, pursuant to Sections 114(a)(1) and 208(a) of the CAA, 42 U.S.C. §§ 7414(a)(1) and 7542(a).

Provide the following information in Appendix F, worksheet 1.

1. For each lot number or machine serial number listed below, provide the name of the owner that brought the machine onto your property, the owner's address and his/her phone number.

Seller Number	Lot Number	Equipment Type	Make	Model	Serial Number
20019	5937	Hydraulic Excavator	Caterpillar	305E2	
20019	5938	Hydraulic Excavator	Caterpillar	305E2	

2. For each lot number or machine serial number listed below, provide the name of the buyer that was the winning bidder, as well as the buyer's address and his/her phone number.

Seller Number	Lot Number	Equipment Type	Make	Model	Serial Number
20019	5937	Hydraulic Excavator	Caterpillar	305E2	
20019	5938	Hydraulic Excavator	Caterpillar	305E2	

3. Identify each person responsible for responding to this Information Request, including his or her title, and the Request(s) to which he or she responded.

Appendix D

Confidential Business Information

An entity may assert a business confidentiality claim covering all or part of the information provided in response to this Information Request for any business information entitled to confidential treatment under Sections 114(c) and 208(c) of the CAA, 42 U.S.C. §§ 7414(c) and 7542(c), and 40 C.F.R. Part 2, subpart B. Under Sections 114(c) and 208(c) of the CAA, entities 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.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Sections 114(c) and 208(c) of the CAA and 40 C.F.R. Part 2, subpart B. If no such business confidentiality claim accompanies the response to this Request for Information when it is received by EPA, then such information may be made available to the public without further notice. See 40 C.F.R. § 2.203(c).

Pursuant to 40 C.F.R. § 2.301(h), EPA possesses the authority to disclose to any authorized representative of the United States information which might otherwise be entitled to confidential treatment. To assist in its review and analysis, EPA may disclose information provided in response to this and other information requests to an EPA contractor, the Eastern Research Group, under contract number 68HERH19C0004.

To assert a business confidentiality claim, an entity must place on (or attach to) all information subject to the claim 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 it provides its response to this Information Request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and may be provided separately to facilitate identification and handling by EPA. An entity should indicate whether confidential treatment is only required until a certain date or until the occurrence of a certain event.

The criteria EPA will use in determining whether material claimed as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208(a)-(d) and 2.301. 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).

Appendix E

Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Information Request, issued pursuant to Sections 114(a) and 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 Alex Lyon & Son Auctioneers. 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: _____