



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

OFFICE OF ENFORCEMENT
AND COMPLIANCE ASSURANCE

VIA ELECTRONIC MAIL

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

The United States Environmental Protection Agency (the “EPA”) hereby requires Hino Motors, Ltd., Hino Motors Manufacturing USA, Inc., Hino Motors Sales USA, Inc., and affiliates, predecessors, successors, and assignees thereof (collectively “Hino”), to provide the information requested below.

The EPA issues this Information Request under Section 208(a) of the Clean Air Act (“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 the CAA’s requirements pertaining to vehicles and engines, and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Chief of the Vehicle and Engine Enforcement Branch in the Air Enforcement Division, Office of Enforcement and Compliance Assurance.

Appendix A provides definitions. Appendix B provides instructions for Hino’s responses to this Information Request. Appendix C specifies the information that Hino must provide. Appendix D provides information about asserting a claim of confidentiality over information Hino submits in response to this Information Request. Appendix E contains the form with which Hino is required to certify the truth and completeness of its response.

Hino is required to provide a complete response to this Information Request to the EPA representative listed below within sixty (60) calendar days from the date of this Information Request. If Hino anticipates it will not be able to fully respond by these deadlines, it may request an extension by contacting Amelie Isin, an Environmental Engineer of my staff, at (202) 564-0365, or isin.amelie@epa.gov, within fifteen (15) days of the date of this Information Request. If timely submitted, the EPA will review Hino's request and may extend the time in which a response must be provided. The EPA acknowledges that the COVID-19 pandemic may be impacting Hino's business. If that is the case, we will consider Hino's specific circumstances in determining an appropriate timeline for responding to this request for information, while still ensuring that the Agency receives the information it needs to timely assess Hino's compliance with the CAA.

If Hino does not provide the information required within the requisite timeframes included in this Information Request, the EPA may seek monetary penalties under Sections 205(b) of the CAA, 42 U.S.C. § 7524(b). This Information Request is a continuing request and the EPA may deem each day the information is not provided beyond the submission deadline to be a separate violation. 42 U.S.C. § 7524(a). Federal law also establishes criminal penalties for knowingly providing false information to the EPA. Failure to provide all requested information in its entirety, and in the format requested, may result in additional inquiries, inspections, and penalties.

Hino must submit all requested information under an authorized signature with the following certification (provided in Appendix E):

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 205 of the Clean Air Act, 42 U.S.C. § 7524, and 18 U.S.C. §§ 1001 and 1341.

Hino may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. Note that certain categories of information, such as emission data, are not properly the subject of such a claim. You must specify the page, paragraph, and sentence when identifying the information subject to your confidentiality claim. Appendix D of this Request for Information specifies the assertion requirements for business confidentiality claims. If no such claim accompanies the information when the EPA receives it, the EPA may make the information available to the public without further notice. The EPA may use any information provided in response to this Information Request in an administrative, civil, or criminal action.

Please provide all requested information electronically. Information may be provided by email to Ms. Amelie Isin, an Environmental Engineer of my staff, at isin.amelie@epa.gov. Alternatively, Hino may want to provide the requested information by way of a secure file sharing site. Please contact Mr. Orehowsky regarding methods other than email.

Questions concerning how to submit information in response to this Information Request should be directed to Amelie Isin at (202) 564-0365, or isin.amelie@epa.gov. Questions from legal counsel should be directed to Mark Palermo, an Attorney-Advisor of my staff, at (202) 564-8894, or palermo.mark@epa.gov.

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PALERMO

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Mark Palermo, Acting Chief
Vehicle and Engine Enforcement Branch
Air Enforcement Division
Office of Civil Enforcement

Via Email Only

cc: Meetu Kaul, EPA (kaul.meetu@epa.gov)
Amelie Isin, EPA (isin.amelie@epa.gov)
Greg Orehowsky, EPA (orehowsky.gregory@epa.gov)
Ian Cecere, California Air Resources Board (ian.cecere@arb.ca.gov)

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. §§ 7401–7671q, or the regulations found at 40 C.F.R. Parts 85, 86, 89, 90, 1036, 1037, 1039, 1048, 1051, 1065, and 1068, in which case they shall have their meanings as defined therein.

1. “Affiliate” means any entity associated with another entity by shareholdings or other means of control, including a subsidiary, parent, or sibling entity.
2. “Auxiliary emission control device” and “AECD” mean any element of design that senses temperature, motive speed, engine rpm, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.
3. “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 an engine or equipment.
4. “Entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
5. The term “Declared Value” refers to the value of imported goods as shown on invoices and reported in documents provided to the U.S. Department of Homeland Security’s Bureau of Customs and Border Protection.
6. The term “Importer of Record” refers to the company name on the U.S. Department of Homeland Security’s Bureau of Customs and Border Protection Entry Form (Customs Form 3461).
7. “CARB” means the California Air Resources Board.
8. “Information” means 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, 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 work sheets. 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 means 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.

9. “Person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
10. “Hino” means collectively Hino Motors, Ltd., Hino Motors Manufacturing USA, Inc., Hino Motors Sales USA, Inc., and affiliates, predecessors, successors, and assignees thereof.

Appendix B
Instructions for Responses

1. Provide the response to this Information Request in electronic form.
2. Provide any narrative responses or lists in English. Where any responsive document is in a language other than English, provide a copy of the original document, a separate English translation, and the name and contact information of the translator.
3. 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 format, and should be number stamped in sequential order (e.g., Bates stamped). Where spreadsheets are responsive to a request, produce them in unlocked electronic spreadsheet format (locked files are unacceptable).
4. For each response, please provide the number of the Request to which it responds and identify each person who provided information that was used to prepare that answer.
5. For each document produced, please indicate the number of the Request to which it responds. Where information is responsive to more than one numbered request, provide that information only once, but indicate the numbers of all requests to which the information is responsive.
6. If a Request is inapplicable, you must state this in your response and provide a narrative explanation as to why it believes the question does not apply. If you do not have documents responsive to a specific Information Request, you must indicate so in your response.
7. For each response to an enumerated request or question, identify each person responsible for making the response, including his, her, or their title, and the Request(s) to which he, she or they responded.
8. When a response is provided in the form of a number, specify the units of measure.
9. This Information Request is a continuing request. Immediately supplement the response to any request in Appendix C upon discovering responsive information not yet produced or gaining possession, custody, or control of responsive information after initially responding to this Information Request.

Appendix C

Information Request

Provide the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542.

1. For each engine that Hino offered for sale, sold, delivered for introduction into commerce, or imported into the United States for Model Years 2010 to 2019 and in calendar year 2020, provide the below data in unlocked, electronic spreadsheet files. Provide a separate file for each model year, using the format provided in EPA's attached spreadsheet template. The template references information contained in your previously submitted response to Appendix C, Request #5, of the EPA's July 21, 2021 information request and requests new information below¹, also highlighted in yellow and light green in EPA's attached spreadsheet template.
 - i. The equipment sale price to the ultimate purchaser;
 - ii. The manufacturer's cost of goods sold for that piece of equipment;
 - iii. The manufacturer's variable operating costs for that piece of equipment;
 - iv. Any other manufacturer costs or adjustments that can be directly attributed to that piece of equipment.
 - v. For internationally-manufactured equipment ultimately sold in the United States, the domestic distributor's equipment purchase price;
 - vi. For internationally-manufactured equipment ultimately sold in the United States, the domestic distributor's cost of goods sold for the final sales configuration of that piece of equipment (this could differ from the domestic distributor's equipment purchase price if the distributor made additions, deletions, and/or alterations to the equipment);
 - vii. For internationally-manufactured equipment ultimately sold in the United States, the domestic distributor's variable operating costs for that piece of equipment; and
 - viii. For internationally-manufactured equipment ultimately sold in the United States, any other domestic distributor costs or adjustments that can be directly attributed to that piece of equipment.
 - ix. The date that the equipment was manufactured;
 - x. The name and address of the company that manufactured the equipment;
 - xi. The engine displacement;
 - xii. The U.S. Department of Homeland Security's Bureau of Customs and Border Protection (Customs) entry number;
 - xiii. The equipment date of importation;
 - xiv. The Declared Value;
 - xv. The name and address of the company that manufactured the engine;
 - xvi. The name and address of the Importer of Record;
 - xvii. The date that the equipment was sold to the ultimate purchaser;
 - xviii. The date that the equipment was exported; and

¹ Note that the information listed under Request #1 is listed in different order in EPA's attached spreadsheet template.

- xix. The emission standard or “Tier” with which the engine complies.
2. For each of the cost categories listed in (i) to (vi) below, provide narrative descriptions of the types of costs and cost line items (e.g., freight, commissions) included in your equipment-specific cost data provided in response to Request #1.
 - i. Manufacturer Cost of Goods Sold for Equipment;
 - ii. Manufacturer Variable Operating Costs for Equipment;
 - iii. Manufacturer Other Costs for Equipment;
 - iv. Domestic Distributor Cost of Goods Sold for Final Sales Configuration of Equipment;
 - v. Domestic Distributor Variable Operating Costs for Equipment; and
 - vi. Domestic Distributor Other Costs for Equipment.
3. For each cost category listed above in Request #2(i-vi), provide the methodology, data, and underlying calculations used to estimate these costs on a per-piece-of equipment basis.
4. Provide complete U.S. federal income tax returns, including all schedules, statements, and attachments, for Hino’s U.S. entities (e.g., Hino Manufacturing USA, Inc., Hino Motors Sales USA, Inc., etc.) for 2010 to the present.
5. For each Hino entity that manufactured or imported equipment identified in response to Request #1, provide complete financial statements, including income statement, balance sheet, and statement of cash flows, for 2010 to present. In addition, please separately provide the entity’s total annual gross revenue, total annual taxable net income, total annual income taxes, and annual effective tax rate for 2010-2020.

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 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, 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 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. If no such business confidentiality claim accompanies the response to this Information Request when it is received by the 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), the 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, the 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 the 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 the 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

I certify that I am fully authorized by Hino Motors, Ltd., Hino Motors Manufacturing USA, Inc., Hino Motors Sales USA, Inc., and their affiliates, predecessors, successors, and assignees, to provide the above information on their behalf to the 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 205 of the Clean Air Act, 42 U.S.C. § 7524, and 18 U.S.C. §§ 1001, 1341.

Date: _____

Name (Printed): _____

Signature: _____

Title: _____