



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9948-82-OECA]

Production of Confidential Business Information in Pending Enforcement Litigation;

Transfer of Information Claimed as Confidential Business Information to the United States

Department of Justice and Parties to Certain Litigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (“EPA”) is providing notice of disclosure in civil enforcement litigation against Navistar International Corp. and Navistar, Inc. pursuant to 40 CFR 2.209(d). In response to discovery requests received by the United States in the litigation styled, United States of America v. Navistar International Corp., and Navistar, Inc., Case No. 15-cv-6143, pending in the United States District Court for the Northern District of Illinois (the “Navistar Litigation”), the United States Department of Justice (“DOJ”) is disclosing information which has been submitted to EPA by vehicle and engine manufacturers that is claimed to be, or has been determined to be, potential confidential business information (collectively “CBI”). The use of the CBI is limited to the Navistar Litigation and its distribution is restricted by terms of a Court confidentiality order.

DATES: Access by DOJ and/or the parties to the Navistar Litigation to material, including CBI, discussed in this document, is ongoing and expected to continue during the Navistar Litigation.

FOR FURTHER INFORMATION CONTACT: Edward Kulschinsky, Air Enforcement Division, Office of Civil Enforcement (2242A); telephone number: 202-564-4133; fax number: 202-564-0069; email address: kulschinsky.edward@epa.gov.

SUPPLEMENTARY INFORMATION: The United States has initiated a civil enforcement action alleging that Navistar International Corp. and Navistar, Inc., violated Title II of the Clean Air Act in connection with the production and sale of on-highway heavy-duty diesel engines in calendar years 2009 and 2010. This notice is being provided, pursuant to 40 CFR 2.209(d), to inform affected businesses that EPA intends to transmit certain information, which has been submitted by vehicle and engine manufacturers that is claimed to be, or has been determined to be, potential confidential business information (collectively “CBI”), to defendants in this enforcement action. The information includes EPA communications with, and information provided by, vehicle and engine manufacturers in connection with the certification of heavy-duty diesel motor vehicle engines or non-road engines, some of which may include CBI.

The parties to the Navistar Litigation have entered into an Agreed Confidentiality Order, see Case No. 15-cv-6143, ECF Document No. 35 in the Navistar Litigation docket, filed December 15, 2015, (the “Confidentiality Order”), that governs the treatment of information, including CBI, that is designated “Confidential” pursuant to the Confidentiality Order. The Confidentiality Order provides for limited disclosure and use of CBI and for the return or destruction of CBI at the conclusion of the litigation. In accordance with 40 CFR 2.209(c)–(d), DOJ must disclose such information to the extent required to comply with the discovery obligations of the United States in the Navistar Litigation, including its obligations under the Confidentiality Order.

Dated: June 30, 2016.

Phillip A. Brooks,
Director,

Air Enforcement Division.

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