



**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

**In the Matter of:** )  
 )  
**Taotao USA, Inc.,** ) **Docket No. CAA-HQ-2015-8065**  
**Taotao Group Co., Ltd., and** )  
**Jinyun County Xiangyuan Industry** )  
**Co., Ltd.** )  
 )  
**Respondents.** )

**ORDER ON MOTIONS TO SUPPLEMENT THE PREHEARING EXCHANGE**

In May, this Tribunal ordered the parties to supplement their prehearing exchange materials with any additional witnesses or exhibits no later than June 16, 2017. *See* Hearing Notice and Order at 1 (May 9, 2017).<sup>1</sup>

The Agency filed supplementary material and an accompanying motion on June 16, 2017. *See* Complainant’s Third Motion to Supplement the Prehearing Exchange (June 16, 2017). The Agency asks to amend the narrative summaries of three of its witnesses’ expected testimony; add a new witness related to emissions testing; replace a previously-exchanged exhibit with a revised version; and add 12 new exhibits. Respondents object to these additions, arguing they either raise new information that must now be considered or include evidence that is not probative or relevant. Respondents’ Response to Complainant’s Third Motion to Supplement the Prehearing Exchange and Motion to Take Deposition at 2-4 (July 3, 2017).

Respondents filed their First Motion to Supplement the Prehearing Exchange on June 19, 2017.<sup>2</sup> In their motion, Respondents seek to add both fact and opinion witnesses; supplemental exhibits on penalty issues and their ability to pay the proposed penalty; steps taken to achieve compliance; and emission test reports. The Agency responds that some of Respondents’ proposed exhibits and witnesses are “not relevant or probative to the narrow issue of penalty that remains in this case.” Complainant’s Response to Respondents’ First Motion to Supplement the Prehearing Exchange at 1-2 (June 30, 2017).

Parties who previously have exchanged information “shall promptly supplement or correct the exchange when the party learns that the information exchanged or response provided

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<sup>1</sup> After this deadline had passed, it was extended to September 15, 2017. *See* Order on Respondents’ Motion for Continuance of Hearing at 2 (June 27, 2017).

<sup>2</sup> Respondents apparently tried to file their motion on June 17 but were unsuccessful. Although their motion is untimely, it will be granted because its tardiness in this instance causes no harm.

is incomplete, inaccurate or outdated, and the additional or corrective information has not otherwise been disclosed to the other party pursuant to this section.” 40 C.F.R. § 22.19(f). In this instance, the parties are supplementing the record as provided for by the rules, and given that the hearing is some three months away, there is plenty of time for each to review the new material without the burden of surprise. To the extent the parties view specific exhibits or testimony as irrelevant or not probative of the issues in this case, they should move to exclude such evidence from hearing by way of a motion in limine.<sup>3</sup>

Consequently, both the Agency’s and the Respondents’ motions to supplement the prehearing exchange are **GRANTED**.

**SO ORDERED.**



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Susan L. Biro  
Chief Administrative Law Judge

Dated: July 7, 2017  
Washington, D.C.

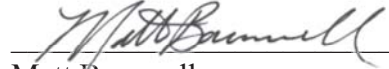
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<sup>3</sup> The parties filed motions in limine on June 23, 2017. However, the time for responding to those motions has not yet expired. Additionally, the deadline for filing motions in limine was later extended to September 22, 2017. *See* Order on Respondents’ Motion for Continuance of Hearing at 3 (June 27, 2017).

In the Matter of *Taotao USA, Inc., Taotao Group Co., Ltd., and Jinyun County Xiangyuan Industry Co., Ltd.*, Respondents. Docket No. CAA-HQ-2015-8065

**CERTIFICATE OF SERVICE**

I certify that the foregoing **Order on Motions to Supplement the Prehearing Exchange**, dated July 7, 2017, and issued by Chief Administrative Law Judge Susan L. Biro, was sent this day to the following parties in the manner indicated below.

  
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Dated: July 7, 2017  
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