

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

In the Matter of:

PEACE INDUSTRY GROUP (USA), INC.,  
ZHEJIANG PEACE INDUSTRY AND  
TRADE CO., LTD., CHONGQING  
ASTRONAUTIC BASHAN MOTORCYCLE  
MANUFACTURING CO., LTD., and BLUE  
EAGLE MOTOR INC.,

Respondents.

Docket No.  
CAA-HQ-2014-8119

**MOTION FOR A DEFAULT ORDER**

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## **Introduction**

1. By this Motion for a Default Order (“Motion”), Complainant requests that the Presiding Officer find that default has occurred in this matter based on Zhejiang Peace Industry and Trade Co., Ltd.’s and Chongqing Astronautic Bashan Motorcycle Manufacturing Co., Ltd.’s, (hereinafter, “Foreign Respondents”) failure to timely file Prehearing Exchange, as required by the Prehearing Order, and issue a default order.
2. Administrative Law Judge M. Lisa Buschmann is the Presiding Officer in this matter.
3. Complainant requests that the Presiding Officer find that default has occurred in this matter based on Foreign Respondents’ failure to timely file their Prehearing Exchange, and issue a default order against Foreign Respondents with respect to all claims alleged against Foreign Respondents in this proceeding (Counts 1-6 in the Complaint) that requires Respondents to pay civil penalties; such an order would resolve all outstanding issues and claims against Foreign Respondents.
4. This Motion begins by stating the relevant factual background. In doing so, this Motion refers to the enclosed Appendix (“App.”), which includes primary documents. This Motion then summarizes the law governing the Default Order requested here. Next, this Motion explains how default has occurred in this matter, and that the Presiding Officer is authorized to issue a Default Order akin to the Proposed Order at the close of this Motion. Lastly, this Motion states the factual and legal grounds for issuing a default order against Foreign Respondents with respect to Counts 1-6 alleged in this case.

## **Procedural Background**

5. Complainant, the United States Environmental Protection Agency (“EPA”), filed the Complaint in this proceeding on June 27, 2014 (“Complaint”).
6. Respondents filed separate answers by July 29, 2014.

7. After the parties engaged in Alternative Dispute Resolution without reaching a settlement, Administrative Law Judge M. Lisa Buschmann was designated as the Presiding Officer in this matter on December 3, 2014.
8. On January 20, 2015, Judge Buschmann issued a Prehearing Order establishing, among other things, deadlines for exchange of information.
9. Complainant filed its Prehearing Exchange on February 27, 2015.

#### **Factual Background: Respondents**

10. Respondent Zhejiang Peace Industry and Trade Co., LTD. (Zhejiang Peace) is incorporated under the laws of the People's Republic of China and is located at No. 7 Lanhua Road, Baihuashan Industrial Park, Economy Development Zone, Wuyi, Zhejiang, China.
11. Respondent Chongqing Astronautic Bashan Motorcycle Manufacturing Co., LTD. (Bashan) is incorporated under the laws of the People's Republic of China and is located at Huaxi Industrial Park, Lijiatio, Banan District, Chongqing, China.
12. Zhejiang Peace and Bashan manufacture, label, and deliver vehicles for introduction to United States commerce. They introduce vehicles into the United States' stream of commerce with the expectation that ultimate purchasers will acquire them through independent dealerships in approximately 40 states. These manufacturers collaborate with Respondents Peace Industry Group (USA), Inc. (Peace USA), and Blue Eagle Motor Co. (Blue Eagle) who obtain from the EPA the certificates of conformity required by the Clean Air Act to introduce manufacturers' vehicles into United States commerce. Peace USA also imports these vehicles and introduces them into United States commerce.

13. Zhejiang Peace and Bashan manufactured or assembled every vehicle in this matter. The following Table A from the Complaint identifies which company manufactured or assembled which vehicles.

Table A: Summary of Subject Vehicles and Counts 1 - 6						
Count(s)	Purported Engine Family	Vehicle Type	COC Holder	Manufacturer	Violations	Total Vehicles
1	9PCGC.050SAA	Highway Motorcycle	Peace USA	Bashan	A, B, C	7,895
2	ABLEC.049PCE	Highway Motorcycle	Blue Eagle	Bashan	B	2,812
3, 6	9BLEX0.11PCE	Recreational Vehicle	Blue Eagle	Zhejiang Peace	B, D, W	5,908
4	ABLEX0.11PCE	Recreational Vehicle	Blue Eagle	Zhejiang Peace	B	6,122
5	APCGX.150AAA	Recreational Vehicle	Peace USA	Zhejiang Peace	A, B	222

Violations Legend	
A	Uncertified: Nonconforming Catalyst
B	Uncertified: Nonconforming Carburetor
C	Uncertified: Nonconforming Engine Displacement
D	Uncertified: Crankcase Vents Directly to Ambient Air
W	Warranty Violation

**Factual Background: Respondents' Prehearing Exchange**

14. On September 29, 2014, Mr. Quiping ("Byron") Wang notified Complainant, by letter of authorization, that he would act as a representative for Foreign Respondents. App. 1-2. Every filing in this matter, including the Prehearing Order and Complainant's Initial Prehearing Exchange, has been served on Mr. Wang in his capacity as authorized representative for Foreign Respondents.
15. The Prehearing Order directed each Respondent to file its Prehearing Exchange by March 27, 2015, including:

1. A narrative statement explaining in detail the legal and/or factual bases for any assertions in the Answer defending against factual allegation(s) in the Complaint, and/or a copy of any documents in support of such assertion(s).
2. A narrative statement explaining why the maximum penalties referenced in the Complaint should not be assessed in this case, with a specific description of the facts and a copy of any documentation in support.
3. If a Respondent believes that it is unable to pay the maximum penalties referenced in the Complaint, or that payment would have an adverse effect on its ability to continue in business, a brief statement to that effect, and a copy of documents in support, such as tax returns and/or certified copies of financial statements.

Prehearing Order at 3.

16. By March 27, 2015, G. Michael Smith, counsel for Peace Industry Group (USA), Inc. and Blue Eagle Motor Inc., filed a submission on behalf of those entities entitled “Respondent’s Initial Prehearing Exchange.”
17. Foreign Respondents did not file any submission by March 27, 2015, and have not as of the date of filing of this Motion.

#### **Governing Law**

18. “The prehearing exchange plays a pivotal function – ensuring identification and exchange of all evidence to be used at hearing and other related information...By compelling the parties to provide this information in one central submission, the prehearing exchange clarifies the issues to be addressed at hearing and allows the parties and the court an opportunity for informed preparation for hearing.” *In re: JHNY, Inc.* 12 E.A.D. 372, 382 (2005).

19. The Consolidated Rules authorize a default order in 40 C.F.R. § 22.17. Section 22.17 reads, in pertinent part, as follows:
- a. “A party may be found to be in default: upon failure to comply with the information exchange requirements of § 22.19(a) or an order of the Presiding Officer . . . . Default by respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the complaint and a waiver of respondent's right to contest such factual allegations.” *Id.* § 22.17(a).
  - b. “A motion for default may seek resolution of all or part of the proceeding. Where the motion requests the assessment of a penalty or the imposition of other relief against a defaulting party, the movant must specify the penalty or other relief sought and state the legal and factual grounds for the relief requested.” *Id.* § 22.17(b).
  - c. “When the Presiding Officer finds that default has occurred, he shall issue a default order against the defaulting party as to any or all parts of the proceeding unless the record shows good cause why a default order should not be issued. . . . If the order resolves all outstanding issues and claims in the proceeding, it shall constitute the initial decision under these Consolidated Rules of Practice. . . . The relief proposed in the complaint or the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act.” *Id.* § 22.17(c).
  - d. “Any penalty assessed in the default order shall become due and payable by respondent without further proceedings 30 days after the default order becomes final under § 22.27(c).” *Id.* § 22.17(d).
20. “Defaults can be avoided when a party demonstrates a good cause basis for not complying with the prehearing exchange order.” *In re: JHNY, Inc.* 12 E.A.D. 372, 382 (2005).

### **Default has Occurred in this Matter**

21. As detailed in this section, default has occurred based on Foreign Respondents' failure to file a timely Prehearing Exchange.
22. Foreign Respondents have neither filed any Prehearing Exchange nor shown good cause as to why they have not done so as of the date of this Motion. According to the Prehearing Order, Respondents' Prehearing Exchange was due by March 27, 2015.
23. The facts outlined above provide the Presiding Officer with an ample basis to find that default has occurred based on Respondents' failure to comply with the information exchange requirements of 40 C.F.R. § 22.19(a) and the Prehearing Order. 40 C.F.R. § 22.17(a). Complainant therefore moves the Presiding Officer to find that default has occurred with respect to Counts 1-6 and thereby issue a default order akin to the Proposed Order at the close of this Motion.

### **Request for Relief**

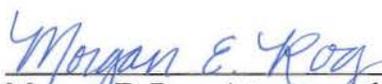
24. "Where the motion [for a default order] requests the assessment of a penalty or the imposition of other relief against a defaulting party, the movant must specify the penalty or other relief sought and state the legal and factual grounds for the relief requested." 40 C.F.R. § 22.17(b).
25. "The relief proposed in the complaint or the motion for default shall be ordered unless the requested relief is clearly inconsistent with the record of the proceeding or the Act." 40 C.F.R. § 22.17(c).
26. Here, Complainant's requested relief is the issuance of a default order with respect to all of the claims alleged in this case except recordkeeping (Counts 1-6) with assessment of a civil penalty of \$1,574,203:
  - a. \$525,988 for Counts 1 and 2; and

- b. \$1,048,215 for Counts 3, 4, 5 and 6.
27. Complainant directs the reader's attention to ¶¶ 10–11 of Complainant's April 10, 2015 Rebuttal Prehearing Exchange. There, Complainant provides a narrative statement explaining in detail the calculation of the proposed penalty and describes how the specific provisions of any penalty policies and guidelines were applied in calculating the penalty. To avoid repetitive filings in this matter, Complainant incorporates by reference those statements and descriptions into this Motion for Default.
28. Complainant requests that the Presiding Officer order :
- a. with respect to Counts 1 and 2: Respondents Zhejiang Peace and Bashan, jointly and severally to pay the Civil Penalty requested in paragraph 26(a) above. A joint and several penalty order is appropriate because: that is the relief requested in Paragraph 34 of the Complaint and Respondents have failed to file their Prehearing Exchange; seeking only one penalty per vehicle is reasonable in light of the CAA's authorization to seek a penalty against each Respondent each time it sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported (or caused any of the foregoing with respect to) a noncompliant vehicle (thereby authorizing two or more penalties for each subject vehicle);
  - b. with respect to Counts 3 – 6: Respondent Zhejiang Peace to pay the Civil Penalty requested in paragraph 26(b) above.
29. For purposes of this Motion, the facts alleged in the Complaint are deemed to be admitted because default has occurred. 40 C.F.R. § 22.17(a). The facts alleged in the Complaint establish Counts 1-6, which are stated in the Complaint. Liability for these claims subjects Respondents to a civil penalty that is the sum of not more than \$37,500 for each and every vehicle that Respondents

introduced into commerce. Complaint ¶ 17. By this Motion, Complainant has specified the penalties sought and the legal and factual grounds for the penalties. 40 C.F.R. § 22.17(b). This requested relief is consistent with the record of this proceeding and the CAA, so the Presiding Officer shall order the relief requested. *Id.* § 22.17(c). Issuance of the Default Order requested here would resolve all outstanding issues and claims in this proceeding with respect to the Foreign Respondents. *Id.*

30. As detailed in this section, by this Motion, Complainant requests that the Presiding Officer issue a default order requiring: Respondents Zhejiang Peace and Bashan, jointly and severally, to pay a civil penalty of \$525,988; and Zhejiang Peace to pay a civil penalty of \$1,048,215. These amounts are consistent with the record of the proceeding and the Act. 40 C.F.R. § 22.17(c). Accordingly, the Consolidated Rules direct that the Presiding Officer order this requested relief. *Id.*

Respectfully Submitted,



Morgan E. Rog, Attorney Adviser  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance

1200 Pennsylvania Ave., N.W.  
William J. Clinton Federal Building  
Room 4146A, Mailcode 2249A  
Washington, DC 20460  
(202) 564-7109  
rog.morgan@epa.gov

April 10, 2015

Date

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

In the Matter of:

PEACE INDUSTRY GROUP (USA), INC.,  
ZHEJIANG PEACE INDUSTRY AND  
TRADE CO., LTD., CHONGQING  
ASTRONAUTIC BASHAN MOTORCYCLE  
MANUFACTURING CO., LTD., and BLUE  
EAGLE MOTOR INC.,

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**ORDER**

Pursuant to sections 203, 205, and 213 of the Clean Air Act, 42 U.S.C. §§ 7522, 7524, 7547, 40 C.F.R. § 1068.101, and the Consolidated Rules at 40 C.F.R. §§ 22.14, 22.17 and 22.27:

1. Complainant's Motion for a Default Order is hereby GRANTED.
2. Respondents Zhejiang Peace Industry and Trade Co., Ltd. and Chongqing Astronautic Bashan Motorcycle Manufacturing Co., Ltd., are ordered to pay, jointly and severally, a civil penalty in the amount of \$525,988 in the manner directed below.
3. Respondent Zhejiang Peace Industry and Trade Co., Ltd. is ordered to pay a civil penalty in the amount of \$1,048,215 in the manner directed below.
4. Respondents shall pay the above-stated civil penalty as follows: use any method, or combination of methods, provided on the website <http://www2.epa.gov/financial/makepayment>; identify each and every payment with "Docket No. CAA-HQ-2014-8119"; and, within 24 hours of payment, send proof of payment ("proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with "Docket No. CAA-HQ-2014-8119") to both the EPA Office of Administrative Law Judges and the Complainant, as follows:

- a. The EPA Office of Administrative Law Judges: If by USPS (except Express Mail), send to:

U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Mail Code 1900R  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

If by any other carrier or hand-delivery, deliver to:

U.S. Environmental Protection Agency  
Office of Administrative Law Judges  
Ronald Reagan Building, Rm. M1200  
1300 Pennsylvania Ave., N.W.  
Washington, DC 20460

- b. Complainant: If by USPS (except Express Mail), send to:

Morgan E. Rog  
U.S. EPA, Office of Civil Enforcement  
1200 Pennsylvania Ave., N.W.  
Mailcode 2249A  
Washington, DC 20460

If by any other carrier or hand-delivery, deliver to:

Morgan E. Rog  
U.S. EPA, Office of Civil Enforcement  
1200 Pennsylvania Ave., N.W.  
William J. Clinton Federal Building, Room 4146A  
Washington, DC 20004

5. If Respondents fails to timely pay any portion of the penalty ordered, the EPA may:

- a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
- b. refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- c. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal

Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

- d. suspend or revoke Respondents' licenses or other privileges, or suspend or disqualify Respondents from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

It is so ordered.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
[Name]  
[Title]

## CERTIFICATE OF SERVICE

I certify that on the date below I filed electronically using the OALJ E-Filing System the foregoing Motion for a Default Order *In the Matter of Peace Industry Group (USA) Inc., Zhejiang Peace Industry and Trade Co., Ltd., Chongqing Astronautic Bashan Motorcycle Manufacturing Co., Ltd., and Blue Eagle Motor Inc.*, CAA-HQ-2014-8119.

I certify that on the date below I sent by United States Postal Service First-Class Mail one copy of the foregoing Motion to counsel of record for the following Respondents at the following address: Peace Industry Group (USA), Inc. and Blue Eagle Motor Inc.

G. Michael Smith  
W. Anthony Collins, Jr.  
Smith, Collins & Fletcher, P.A.  
8565 Dunwoody Place, Building 15, Suite B  
Atlanta, Georgia 30350

I certify that on the date below I sent by United States Postal Service First-Class Mail one copy of the foregoing Motion to the representative of record for the following Respondents at the following address: Zhejiang Peace Industry and Trade Co., Ltd. and Chongqing Astronautic Bashan Motorcycle Manufacturing Co., Ltd.

Quiping Wang  
2649 Mountain Industrial Blvd.  
Tucker, GA 30084

April 10, 2015  
Date

Morgan E. Rog  
Morgan E. Rog, Attorney Adviser  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance

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Room 4146A, Mailcode 2249A  
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ADMINISTRATOR**

In the Matter of:

PEACE INDUSTRY GROUP (USA), INC.,  
ZHEJIANG PEACE INDUSTRY AND  
TRADE CO., LTD., CHONGQING  
ASTRONAUTIC BASHAN MOTORCYCLE  
MANUFACTURING CO., LTD., and BLUE  
EAGLE MOTOR INC.,

Respondent.

Docket No.  
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**APPENDIX TO MOTION FOR A DEFAULT ORDER**

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**Chongqing Astronautic Bashan Motorcycle Manufacturing Co.,Ltd.**

Add: No.1 Kangchao Road,Banan District,Chongqing,China

Tel: 0086-18957921011

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THIS MEMORANDUM IS TO CERTIFY THAT QIUPING WANG a/k/a BYRON WANG IS ACTING AS THE AUTHORIZED REPRESENTATIVE AND AGENT FOR CHONGQING ASTRONAUTIC BASHAN MOTORCYCLE MANUFACTURING CO,LTD 。 IN REFERENCE TO THE CLAIMS AND ALLEGATIONS MADE BY THE EPA FOR VIOLATIONS OF THE U.S.A. CLEAN AIR ACT. MR. WANG HAS BEEN INSTRUCTED TO REPORT THE PROCEEDINGS BACK TO CHONGQING ASTRONAUTIC BASHAN MOTORCYCLE MANUFACTURING CO,LTD.SO THAT INFORMED DECISIONS CAN BE MADE AND PROPER RESPONSES MADE BACK TO THE MEDIATOR OR COURT THROUGH OUR REPRESENTATIVE/AGENT.

ANY FORMAL RESPONSES, OFFERS OR AGREEMENTS OR SETTLEMENT PROPOSALS PRESENTED BY MR. WANG TO THE MEDIATOR, COURT OR EPA REGARDING THE THESE MATTERS WILL HAVE TO FIRST BE APPROVED BY THE OFFICERS AND BOARD OR DIRECTORS OF CHONGQING ASTRONAUTIC BASHAN MOTORCYCLE MANUFACTURING CO,LTD. BEFORE THEY WILL BINDING UPON CHONGQING ASTRONAUTIC BASHAN MOTORCYCLE MANUFACTURING CO,LTD.

IF SETTLEMENT AGREEMENT IS REACHED THE FINAL AGREEMENT DOCUMENT WILL BE SIGNED BY THE PRESIDENT OF CHONGQING ASTRONAUTIC BASHAN MOTORCYCLE MANUFACTURING CO,LTD. NO OTHER AUTHORIZATION IS GIVEN TO MR. WANG WITHOUT COMPANY APPROVAL.

SO APPROVED THIS 29th DAY OF SEPTEMBER, 2014.



/wenqian Wu

By: Authorized Officer of **Chongqing Astronautic Bashan Motorcycle Manufacturing Co.,Ltd.**

**ZHEJIANG PEACE INDUSTRY AND TRADE CO., LTD**

NO.7 LANHUA ROAD BAIHUASHAN INDUSTRIAL PARK,ECONOMY DEVELOPMENT

ZONE,WUYI,ZHEJIANG,CHINA

Tel: 0086-057987616819

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THIS MEMORANDUM IS TO CERTIFY THAT QIUPING WANG a/k/a BYRON WANG IS ACTING AS THE AUTHORIZED REPRESENTATIVE AND AGENT FOR ZHEJIANG PEACE INDUSTRY AND TRAND CO.,LTD . IN REFERENCE TO THE CLAIMS AND ALLEGATIONS MADE BY THE EPA FOR VIOLATIONS OF THE U.S.A. CLEAN AIR ACT. MR. WANG HAS BEEN INSTRUCTED TO REPORT THE PROCEEDINGS BACK TO ZHEJIANG PEACE INDUSTRY AND TRAND CO.,LTD.SO THAT INFORMED DECISIONS CAN BE MADE AND PROPER RESPONSES MADE BACK TO THE MEDIATOR OR COURT THROUGH OUR REPRESENTATIVE/AGENT.

ANY FORMAL RESPONSES, OFFERS OR AGREEMENTS OR SETTLEMENT PROPOSALS PRESENTED BY MR. WANG TO THE MEDIATOR, COURT OR EPA REGARDING THE THESE MATTERS WILL HAVE TO FIRST BE APPROVED BY THE OFFICERS AND BOARD OR DIRECTORS OF ZHEJIANG PEACE INDUSTRY AND TRAND CO.,LTD. BEFORE THEY WILL BINDING UPON ZHEJIANG PEACE INDUSTRY AND TRAND CO.,LTD.

IF SETTLEMENT AGREEMENT IS REACHED THE FINAL AGREEMENT DOCUMENT WILL BE SIGNED BY THE PRESIDENT OF ZHEJIANG PEACE INDUSTRY AND TRAND CO.,LTD. NO OTHER AUTHORIZATION IS GIVEN TO MR. WANG WITHOUT COMPANY APPROVAL.

SO APPROVED THIS 29th DAY OF SEPTEMBER, 2014.

吕东 /Dong lv

By: Authorized Officer of ZHEJIANG PEACE INDUSTRY AND TRAND CO.,LTD