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U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

_____)	
In the Matter of:)	Docket No. CAA-09-2015-0001
)	
Easy Vehicle, Inc.;)	COMPLAINT AND NOTICE OF
)	OPPORTUNITY FOR HEARING
Yi Yu;)	
)	
Titan Imports, Inc.;)	
)	
Zhejiang Easy Vehicle Co., Ltd.)	
)	
Respondents)	
_____)	

Preliminary Statement

1. This Complaint commences an administrative penalty assessment proceeding under section 205(c)(1) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. § 7524(c)(1), and the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil

Penalties and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. Part 22 (“Consolidated Rules”). 40 C.F.R. § 22.13(a).

2. Complainant in this matter is the United States Environmental Protection Agency (“EPA”). On EPA’s behalf, Kathleen Johnson, Director, Enforcement Division, U.S. Environmental Protection Agency, Region 9, is authorized by lawful delegation to issue an administrative complaint under section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1). EPA Delegation 7-6-A (August 4, 1994); EPA, Region 9 Redelegation R9-7-6-A (February 11, 2013).
3. Respondents in this matter are Easy Vehicle, Inc. (“Easy Vehicle”), Mr. Yi Yu, Titan Imports, Inc. (“Titan Imports”), and Zhejiang Easy Vehicle Co., Ltd. (“Zhejiang Easy Vehicle”) (collectively “Respondents”).
4. On information and belief, Easy Vehicle is a private company, organized under the law of the State of California and having an office at 8630 Rochester Avenue, Rancho Cucamonga, California, 91730.
5. On information and belief, the corporate registration of Easy Vehicle with the California Secretary of State has been suspended since 2006.
6. On information and belief, Mr. Yi Yu was the Chief Executive Officer of Easy Vehicle at all times relevant to this matter.
7. On information and belief, Titan Imports is a private company, organized under the laws of the State of California and having an office at 8630 Rochester Avenue, Rancho Cucamonga, California, 91730.

8. Titan Imports imports and sells off-highway motorcycles, all-terrain vehicles, and other similar items, including the vehicles at issue in this case.
9. On information and belief, Zhejiang Easy Vehicle is a corporation organized under the law of the People's Republic of China and is located at Lieqiao Industrial Area, Yongkang, Zhejiang, China.
10. Zhejiang Easy Vehicle is the designated manufacturer of the vehicles at issue in this case, based on the information contained in the relevant certification application.
11. Zhejiang Easy Vehicle manufactures vehicles in China and contracts with Easy Vehicle to obtain EPA-issued certificates of conformity ("COCs") for vehicles to be sold in the United States.
12. According to the application for COC that Easy Vehicle submitted for vehicles at issue in this case, Easy Vehicle is the registered agent for receipt of service of process for Zhejiang Easy Vehicle.
13. EPA makes the Alleged Violations of Law, below, based on inspections of Respondents' vehicles in March and April 2012, performed by EPA, EPA contractors, or employees of the United States Department of Homeland Security's Bureau of Customs and Border Protection ("CBP").

Jurisdiction

14. This action is brought under section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1), and the Consolidated Rules.
15. EPA may administratively assess a civil penalty if the penalty sought is less than \$320,000, unless EPA and the United States Department of Justice jointly determine that

a matter involving a larger penalty amount is appropriate for administrative penalty assessment. CAA section 205(c)(1), 42 U.S.C. § 7524(c)(1); 40 C.F.R. § 1068.125(b). *See also* 40 C.F.R. § 19.4 (adjusting the statutory amount for inflation).

Governing Law

16. This proceeding arises under Part A of Title II of the CAA, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder. The purpose of these laws is to reduce regulated emissions from mobile sources of air pollution, including hydrocarbons, oxides of nitrogen, and carbon monoxide.
17. The alleged violations of law pertain to recreational vehicles, for which 40 C.F.R. Part 1051 sets emission standards and 40 C.F.R. Part 1068 sets compliance provisions. *See* CAA section 213(d), 42 U.S.C. § 7547(d) (delegating to EPA the authority to implement rules for nonroad vehicles akin to the detailed provisions for motor vehicles found in the CAA itself).
18. Definitions:
 - a. “Commerce” means commerce between any place in any State and any place outside thereof. CAA section 216(6), 42 U.S.C. § 7550(6).
 - b. “Engine family” means a group of engines of a single model year that are expected to have similar emission characteristics throughout their useful life. 40 C.F.R. § 1051.230.
 - c. “Manufacturer” means any person engaged in the manufacturing or assembling of new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines, or importing such vehicles or engines for resale, or who acts for and

is under the control of any such person in connection with the distribution of new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines, but shall not include any dealer with respect to new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines received by him in commerce. CAA section 216(l), 42 U.S.C. § 7550(l); 40 C.F.R. § 1051.801 (*manufacturer*).

- d. “Model year” means a manufacturer’s annual production period (as determined by the Administrator) which includes January first of such calendar year. If the manufacturer has no annual production period, the term model year shall mean the calendar year. 40 C.F.R. § 1051.801 (*model year*).
- e. “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway, (CAA section 216(2), 42 U.S.C. § 7550(2)), with design characteristics listed at 40 C.F.R. § 85.1703.
- f. “Nonroad engine” means, *inter alia*, an internal combustion engine that is not used in a motor vehicle or a vehicle used solely for competition, (CAA section 216(10), 42 U.S.C. § 7550(10)).
- g. “Nonroad vehicle” means an internal combustion engine that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition. 42 U.S.C. § 7550(11).
- h. “Person” includes, *inter alia*, an individual, corporation, partnership, association, State, municipality, and political subdivision of a State. CAA section 302(e), 42 U.S.C. § 7602(e).

- i. “Recreational Vehicle” means a vehicle used for recreation, as provided in 40 C.F.R. § 1051.801 (*recreation*). The term includes, *inter alia*, ATVs and off-road motorcycles. 40 C.F.R. § 1051.801 (*all-terrain vehicles*) defines “all-terrain vehicle” as a nonroad vehicle that is either: (a) designed to travel on four low-pressure tires, has a seat designed to be straddled by the operator and handlebars for steering control, and is intended for use by a single operator and no other passengers; or (b) has three or more wheels and one or more seats, is designed for operation over rough terrain, is intended primarily for transportation, and has a maximum vehicle speed of 25 miles per hour or higher and does not meet the definition of “offroad utility vehicle” at 40 C.F.R. § 1051.801 (*off-road utility vehicle*).

19. Certification Requirements:

- a. EPA’s certification program is designed to ensure that every regulated vehicle sold or imported into the United States conforms in all material respects to a vehicle that has been tested by the manufacturer and approved by EPA on the basis of those tests and other requirements of the regulations. EPA approves regulated vehicles by issuing certificates of conformity. CAA sections 202 and 203, 42 U.S.C. §§ 7621 and 7622.
- b. To obtain a certificate of conformity, a manufacturer must submit an application for a certificate of conformity to EPA for the engine family and model year that it intends to distribute or sell in the United States. 40 C.F.R. § 1051.201(a).
- c. The application for a certificate of conformity must include, among other things, identification of the covered engine family, a description of the vehicles and their emission control systems, and test results from a prototype emissions data vehicle

(“EDV”), showing that the EDV satisfies the emission standards in 40 C.F.R. § 1051.107 (all-terrain vehicles, off-road motorcycles, subsets of recreational vehicles). 40 C.F.R. § 1051.205.

- d. Once issued, a certificate of conformity covers only those vehicles that are: within the engine family specified in the application; manufactured by the manufacturer so named in the application for a certificate of conformity; marked with a model name specified in the application; within the appropriate category of equipment; produced during the model year; and imported subsequent to the effective date of the certificate of conformity. CAA section 203(a)(1), 42 U.S.C. § 7522(a)(1); 40 C.F.R. §§ 1051.201(a), 1051.205, 1068.101(a)(1)(i), (b)(5), 1068.103(a), (c)(2).
 - e. A certificate of conformity covers only those recreational vehicles that conform in all material respects to the specifications in the application for a certificate of conformity. 40 C.F.R. § 1068.103.
 - f. A manufacturer may not sell, offer for sale, introduce into commerce, deliver for introduction into commerce, and no person may import into the United States a recreational vehicle – or cause any of the foregoing – unless that recreational vehicle is covered by an EPA-issued certificate of conformity. CAA sections 203(a)(1) and 213(d), 42 U.S.C. §§ 7522(a)(1), 7547(d); 40 C.F.R. § 1068.101(a)(1) – (a)(1)(i).
20. Anyone who, between January 12, 2009 and December 5, 2013, sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported into the United States a recreational vehicle that was not covered by a certificate of conformity – or anyone who caused any of the foregoing – is subject to a civil penalty of up to \$37,500

for each such vehicle. CAA section 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 1068.101(a)(1), (c).

Alleged Violations of Law

21. Respondents are each “persons” within the meaning of the Act.
22. Respondents are each “manufacturers” within the meaning of the Act.
23. Zhejiang Easy Vehicle is the designated manufacturer of the vehicles at issue in this case.
24. Easy Vehicle submitted an application for COC, and EPA granted COC for the engine family CESYX.124STA on January 3, 2012 that was effective until December 31, 2012.
25. Based on importation records, Titan Imports was the importer of approximately 214 vehicles at issue in this case.

COUNT ONE

26. On or about March 22, 2012 and April 15, 2012, Respondents imported – or caused the importation of 214 uncertified recreational vehicles (“Subject Recreational Vehicles”) in violation of 40 C.F.R. § 1068.101(a)(1). Table 1, below, identifies the Subject Recreational Vehicles, the corresponding purported engine family, model name, entry number assigned by CBP, information, and the date of importation.

Entry Date	Entry No.	Model(s)	Alleged Engine Family/Year	Total Quantity
3/22/12	EAE-1025304-3	YX125	CESYX.124STA	108
4/15/12	EAE-1026144-2	YX125	CESYX.124STA	106

27. 214 Subject Recreational Vehicles purportedly covered by the certificate of conformity for engine family CESYX.124STA did not materially conform to their certified

configuration, and therefore were not covered by the certificate of conformity for engine family CESYX.124STA because the catalytic converters with which each was equipped had a substantially different number of effective catalyst cells than specified in the application for COC. No other COC covers these vehicles.

28. Respondents are liable for 214 separate violations of sections 203(a)(1) and 213 of the CAA, 42 U.S.C. §§ 7522(a)(1) and 7547, and the corresponding recreational vehicle regulations, 40 C.F.R. § 1068.101(a)(1) and (b)(5), for the importation into the United States of the uncertified Subject Recreational Vehicles for the reasons summarized above in Paragraphs 26 and 27.

Relief Sought: Civil Penalty

29. Complainant seeks an administrative penalty against Respondents, jointly and severally, for Count 1 of the Alleged Violations of Law. Count 1 constitutes 214 violations subject to administrative penalty independent of any other penalty.
30. Complainant makes no specific penalty demand in this Complaint, as authorized by 40 C.F.R. § 22.14(a)(4)(ii).
31. As detailed above, Respondents are subject to a civil penalty that is the sum of not more than \$37,500 for each and every Subject Recreational Vehicle imported without an applicable certificate of conformity.
32. Complainant reserves its right to seek the maximum civil penalty authorized by the CAA.
33. In determining the amount of the civil penalty in this matter, the CAA requires that EPA take into account certain penalty factors, namely “the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of

[Respondent's] business, [Respondent's] history of compliance with this subchapter, action taken to remedy the violation, the effect of the penalty on [Respondent's] ability to continue in business, and such other matters as justice may require." CAA section 205(c)(2), 42 U.S.C. § 7524(c)(2).

34. Complainant proposes to account for the CAA's penalty factors by using EPA's Clean Air Act Mobile Source Civil Penalty Policy – Vehicle and Engine Certification Requirements (2009) (the "Penalty Policy"), available at the following electronic address: http://www2.epa.gov/sites/production/files/documents/vehicleengine-penalty-policy_0.pdf. This Penalty Policy calculates civil penalties based on the number of violative engines, their horsepower, the egregiousness of the violations, remedial action, and other legal and equitable factors. Generally, certification violations are "major" egregiousness. Penalty Policy at 13-14. Here, Complainant alleges certification violations pertaining to 214 recreational vehicles.

Opportunity to Request a Hearing

35. Respondents have a right to request a Hearing on any material fact alleged in this Complaint or the appropriateness of a civil penalty. Respondents may request such a Hearing in a written Answer. 40 C.F.R. § 22.15(c).
36. Hearing procedures are set out in the Consolidated Rules at 40 C.F.R. §§ 22.21-22.26. A copy of the Consolidated Rules is enclosed with this Complaint.

Answer

37. If Respondents contest material facts upon which this Complaint is based, contends that a civil penalty is inappropriate, or contends that Respondents are entitled to judgment as a

matter of law, then Respondents must file an original and one copy of a written Answer that conforms to 40 C.F.R. § 22.15 within 30 days after receiving this Complaint.

38. Respondents may file an Answer by any method permitted by the Consolidated Rules and the Office of Administrative Law Judges. *See* EPA Office of Administrative Law Judges, *EPA Office of Administrative Law Judges Practice Manual* 9-10, 13-14 (July 2011), *available at* <http://www.epa.gov/oalj/orders/alj-practice-manual.pdf>; *see also* EPA Office of Administrative Law Judges, *Notice of Changes of Address*, *available at* http://www.epa.gov/oalj/orders/MoveNotice_3_8_13.pdf. Filing options include mail, commercial delivery, overnight mail, or hand delivery, to the following addresses:

If filing by UPS, FedEx, DHL, or other courier, or personal delivery, address to:

U.S. Environmental Protection Agency, Region 9
Regional Hearing Clerk
Room 12-211
75 Hawthorne Street
San Francisco, CA 94105

If filing by the United States Postal Service, address to:

U.S. Environmental Protection Agency, Region 9
Regional Hearing Clerk
Mail Code ORC-1
75 Hawthorne Street
San Francisco, CA 94105

39. Respondents must also send a copy of the Answer to the EPA attorney assigned to this matter, David H. Kim. The Answer shall be served personally, by United States Postal Service (“USPS”) mail (including certified mail, return receipt requested; Express mail; and Priority Mail), or by any reliable commercial delivery service. 40 C.F.R. §

22.5(b)(2). If using USPS mail (except Express Mail), Respondents must use the following address:

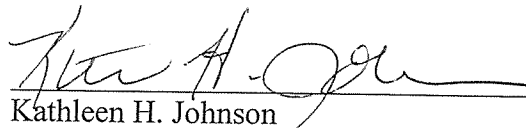
David H. Kim
Mailcode ORC-3
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

If using Express Mail, Respondents must use the following address:

David H. Kim
Office of Regional Counsel, Room 12132
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

40. Respondents' failure to request a Hearing or to file a written Answer within 30 days after receiving this Complaint may result in the waiver of its right to contest allegations set forth in this Complaint or a default judgment pursuant to 40 C.F.R. §§ 22.15, 22.17.

Respectfully Submitted,



Kathleen H. Johnson
Director
Enforcement Division
EPA Region 9

75 Hawthorne Street
San Francisco, CA 94105
(415) 972-3873
Johnson.kathleen@epa.gov

August 28, 2015
Date

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing Complaint and Notice of Opportunity for Hearing was hand delivered to:

The Regional Hearing Clerk
United States Environmental Protection Agency, Region IX
75 Hawthorne St
San Francisco, California 94105-3901

And that a true and correct copy of the Complaint and Notice of Opportunity for Hearing, the Consolidated Rules of Practice at 40 C.F.R Part 22, was placed in the United States Mail, certified mail, return receipt requested, addressed to the following parties:

Syed F. Alam, CEO
Titan Imports, Inc.
8630 Rochester Avenue
Rancho Cucamonga, CA 91730

CERTIFIED MAIL NUMBER 7001 0320 0002 0253

Yi Yu, CEO
Easy Vehicle, Inc.
8630 Rochester Avenue
Rancho Cucamonga, CA 91730

CERTIFIED MAIL NUMBER 7001 0320 0002 0253 9055

Zhejiang Easy Vehicle Co., Ltd.
C/O James Zu, Manager
Stanley Marketing and Consulting (Authorized Representative)
9634 153A Street
Surrey, BC V3R4H9
Canada

CERTIFIED MAIL NUMBER 7001 0320 0002 0254 6060

Dated: 8/31/15

By: 

Enforcement Division
U.S. Environmental Protection Agency, Region IX