

**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.** )

**RESPONSE TO RESPONDENTS'**  
**MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

**CX028**



U.S. Department of Justice

Environment and Natural Resources Division

Environmental Enforcement Section  
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Tel: (202) 514-4084  
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June 2, 2016

Phillip A. Brooks, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: Second Supplemental Request Pursuant to Section 205(c) of the Clean Air Act for a Waiver of the Penalty Limitation on EPA's Authority to Initiate Administrative Action Against *Taotao USA, Inc., et al.*  
DJ # 90-5-2-11249/2

Dear Phill:

This is in response to your letter dated May 6, 2016, titled "Second Addendum to the EPA's January 30, 2015 Request, Pursuant to Section 205(c) of the Clean Air Act, for a Waiver of the Penalty Limitation on the EPA's Administrative Penalty Authority." This letter sought a waiver to pursue administrative penalty assessment action against Taotao USA, Inc., and related entities, for additional recreational vehicles (now totaling 1681) that have been found to violate the certification requirements of the Act and its implementing regulations. I concur with your request for a waiver pursuant to Section 205(c) of the Clean Air Act (CAA), 42 U.S.C. § 7524(c), of the limitation on EPA's authority to assess administrative penalties, in order to pursue an administrative penalty in this matter for these additional vehicles. In addition, you sought a waiver for certain potential additional violations that may occur in the future. I concur with your waiver request for future violations of Section 203(a) of the CAA, 42 U.S.C. § 7522(a), as long as such violations are *substantially similar* to those covered under the waivers already issued to date, and do not cause the total number of waived vehicles in the matter to exceed 125,000. (This includes both any vehicles that are included in your administrative complaint and vehicles that are not pled in the complaint but that EPA seeks to resolve in its administrative penalty assessment action.

By *substantially similar* to those covered under waivers concurred upon to date, I mean future violations:

- that harm the regulatory scheme, but that do not cause excess emissions; and
- of provisions on certification, labeling, incorrect information in manuals, or warranty information violations.

I ask EPA to consult with us to discuss the path forward for any violations that are *not substantially similar*, including, but not limited to any future violations:

- that go beyond mere harm to the regulatory scheme;
- that cause excess emissions;
- that are other than violations of provisions on certification, labeling, incorrect information in manuals, or warranty information violations; or
- that are willful, knowing, or otherwise potentially criminal; or
- that increase the aggregate number of waived vehicles in the matter to over 125,000 total.

If you have any questions, please call me (514-4084) or Leslie Allen (514-4114).

Sincerely,



Karen S. Dworkin  
Assistant Section Chief  
Environmental Enforcement Section