

**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**

ATTACHMENT K



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 6 2016

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

The Honorable John C. Cruden
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044-7611

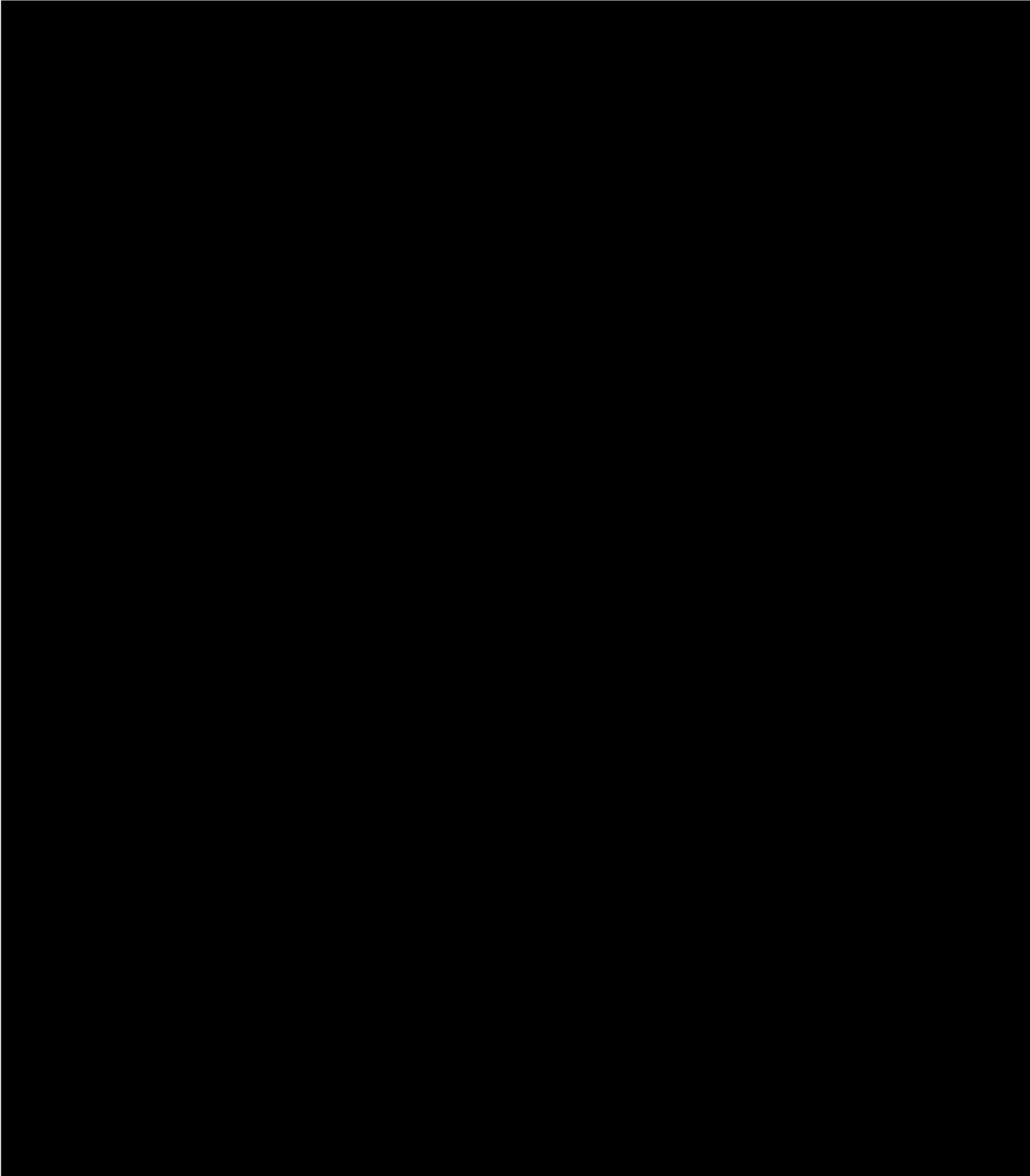
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Attn: Joe Davis
Case Management Unit
ENRD/EES
Room 6009

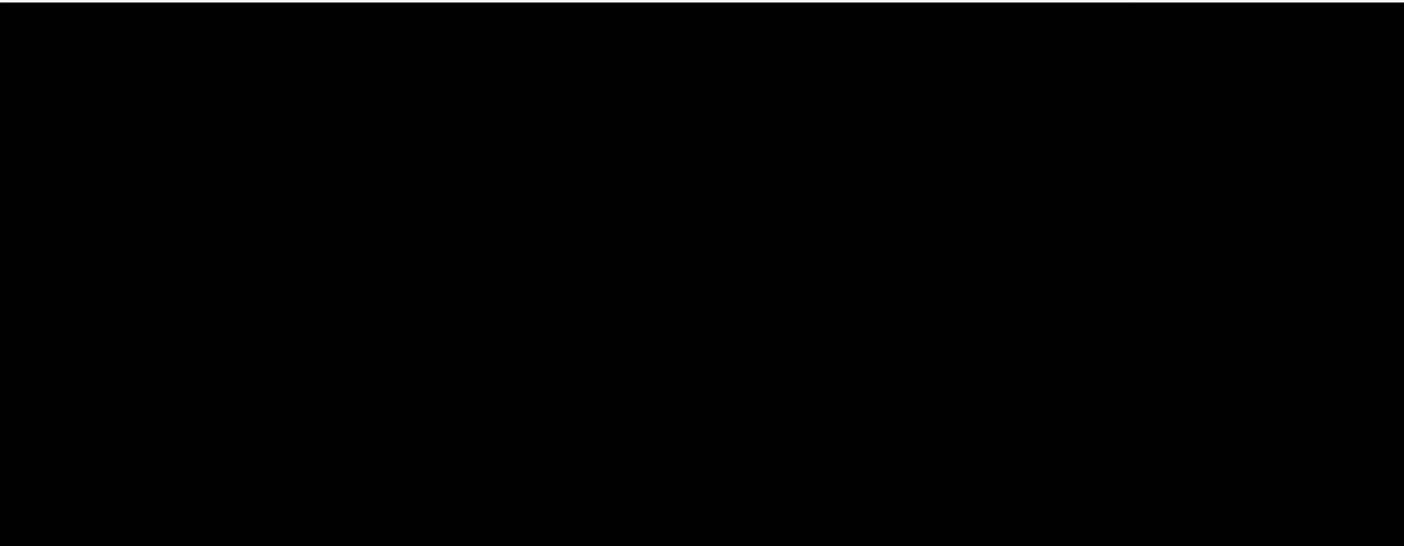
Re: Second Addendum to the EPA's January 30, 2015 Request, Pursuant to Section 205(c) of the Clean Air Act, for a Waiver of the Penalty Limitation on the EPA's Administrative Penalty Authority

Dear Mr. Cruden:

By letters dated January 30, 2015, and February 1, 2016, the Air Enforcement Division of the U.S. Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance requested that the U.S. Department of Justice (DOJ) waive the Clean Air Act's (Act) statutory limitation on the EPA's authority to assess an administrative penalty greater than \$320,000 for an enforcement case involving Taotao USA, Inc. (Taotao USA), and Jinyun County Xiangyuan Industry Co., Ltd., and Taotao Group Co., Ltd. (jointly China Taotao). DOJ concurred with these requests in letters from Karen Dworkin dated March 17, 2015, and March 24, 2016, respectively. Thank you for those prompt responses. For your reference, the waiver requests and concurrence letters are enclosed.

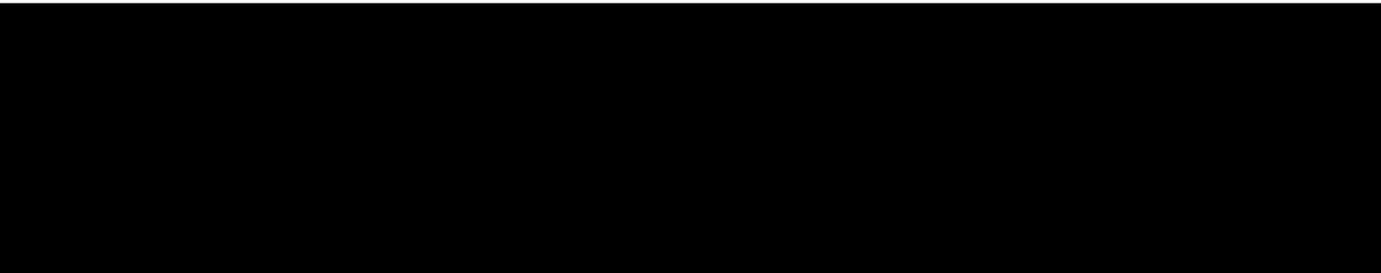


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As you know, the EPA may not seek a penalty higher than \$320,000 against a violator in an administrative proceeding for violations of section 203 of the Act, 42 U.S.C. § 7522, and 40 C.F.R. Part 1068.¹ This limitation, however, may be waived if “the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment.” 42 U.S.C. § 7524(c)(1).

We seek your concurrence to pursue a higher penalty in this matter based on the violations described herein. 



¹ See 42 U.S.C. § 7524(c) (setting the administrative penalty cap at \$200,000); 40 C.F.R. § 19.4 (increasing the cap to \$270,000 for penalties accruing between March 15, 2004, and January 12, 2009, to \$295,000 for penalties accruing between January 12, 2009, and December 6, 2013, and to \$320,000 for penalties accruing after December 6, 2013).

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[REDACTED]

We would very much appreciate your expeditious response, especially addressing the likelihood of more, similar violations in the future. If you have any questions or need further information regarding this matter, please do not hesitate to contact me at (202) 564-0652, or the attorney assigned to this matter, Robert Klepp, (202) 564-5805.

Sincerely,



Phillip A. Brooks
Director, Air Enforcement Division

cc: Karen Dworkin, EES

Enc: January 30, 2015 waiver request
March 17, 2015 concurrence letter
February 1, 2016 waiver request
March 24, 2016 concurrence letter

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