

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

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2014 JUN 27 AM 10:45

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.,

Docket No.  
CAA-HQ-2014-8119

Respondents

**COMPLAINT**

**Preliminary Statement**

1. This Complaint commences this administrative penalty assessment proceeding under section 205(c)(1) of the Clean Air Act (“CAA”), 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 the EPA’s behalf, Phillip A. Brooks, Director, Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, is authorized by lawful delegation to institute a civil administrative penalty assessment proceeding under section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1). EPA Delegation 7-6-A (Aug. 4, 1994); Office of Enforcement and Compliance Assurance Redelgation 7-6-A (March 5, 2013); Office of Civil Enforcement Redelgation 7-6-A (March 5, 2013).

3. Respondents in this matter are Peace Industry Group (USA), Inc. (Peace USA), Zhejiang Peace Industry and Trade Co., LTD. (Zhejiang Peace), Chongqing Astronautic Bashan Motorcycle Manufacturing Co., LTD. (Bashan), and Blue Eagle Motor Inc. (Blue Eagle) (collectively, Respondents).
4. Peace USA and Blue Eagle are each incorporated under the laws of Georgia and are both located at 2649 Mountain Industrial Boulevard, Tucker, Georgia, 30084. 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. 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.
5. At all times relevant to this action, the Respondents were engaged in the business of selling, offering for sale, introducing into commerce, delivering for introduction into commerce, or importing (or causing the foregoing with respect to) vehicles regulated under the CAA.
6. Zhejiang Peace and Bashan manufacturer, label, and deliver vehicles for introduction into 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 Peace USA and Blue Eagle who obtain from the EPA the certificates of conformity required by the CAA to introduce the manufacturers' vehicles into United States commerce. Peace USA also imports these vehicles and introduces them into United States commerce. In their applications for these certificates of conformity,

both Zhejiang Peace and Bashan identified both Peace USA and Blue Eagle as agents for service of process.

7. The EPA makes the Alleged Violations of Law, below, based on approximately sixteen inspections of Respondents' vehicles between March 3, 2009, and March 7, 2011, performed by the EPA, EPA contractors, or employees of the United States Department of Homeland Security's Bureau of Customs and Border Protection. These inspections occurred at the Port of Long Beach, California, and retail locations. Additionally, the EPA makes the Alleged Violations of Law based on information Respondents provided to the EPA in response to an October 13, 2010 Request for Information under section 208 of the CAA, 42 U.S.C. § 7542.

#### **Jurisdiction**

8. This action is brought under section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1), and the Consolidated Rules.
9. The EPA may administratively assess a civil penalty if the penalty sought is less than \$320,000, unless the 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 § 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).
10. The EPA and the United States Department of Justice jointly determined that this matter, although it may involve a penalty assessment more than \$320,000, is appropriate for an administrative penalty assessment.

11. The Environmental Appeals Board acts as the Presiding Officer for this proceeding until Respondents file an Answer or Answers because Complainant commences this administrative penalty assessment proceeding at EPA Headquarters. 40 C.F.R. § 22.4(a)(1); EPA Delegation 1-38-B.

### **Governing Law**

12. This proceeding arises under Part A of Title II of the CAA, 42 U.S.C. §§ 7521 – 7554, and the regulation promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including hydrocarbons, oxides of nitrogen, and carbon monoxide.
  - a. The Alleged Violations of Law regard motor vehicles, specifically highway motorcycles, for which 40 C.F.R. Part 86 sets emission standards and 42 U.S.C. § 7522 sets compliance provisions. The certification requirements described below became applicable to highway motorcycles beginning with the 1978 model year. 40 C.F.R. §§ 86.401-97, 86.407-78(a).
  - b. The Alleged Violations of Law also regard 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 § 213, 42 U.S.C. § 7547 (delegating to the EPA the authority to implement rules for nonroad vehicles akin to the detailed provisions for motor vehicles found in the CAA itself).
13. Definitions:
  - a. “Adjustable parameter” means any device, system, or element of design that someone can adjust (including those which are difficult to access) and that, if

adjusted, may affect emissions or engine performance during emission testing or normal in-use operation. 40 C.F.R. § 1051.801.

- b. “Commerce” means commerce between any place in any State and place outside thereof. CAA § 216(6), 42 U.S.C. § 7550(6).
- c. “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. §§ 86.420-78, 1051.230.
- d. “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 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 § 216(1), 42 U.S.C. § 7550(1); 40 C.F.R. § 1051.801.
- e. “Model year” means a manufacturer’s annual production period (as determined by the Administrator) which includes January 1st 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. §§ 86.402-78, 1051.801.
- f. “Motor vehicle” has the meaning provided in section 216(2) of the CAA, 42 U.S.C. § 7550(2), and 40 C.F.R. § 85.1703.

- g. “Motorcycle” means any motor vehicle with a headlight, taillight, and stoplight and having: Two wheels, or Three wheels and a curb mass less than or equal to 793 kilograms (1749 pounds). 40 C.F.R. § 86.402-98.
- h. Highway motorcycles and recreational vehicles are considered “new” at the time of import. CAA § 216(3), 42 U.S.C. § 7550(3); 40 C.F.R. § 1051.801.
- i. “Other adjustments” includes changes to a recreational vehicle’s air-fuel ratio that can be made by an experienced mechanic in less than one hour and with a few parts whose total cost is under \$50 (in 2001 dollars). 40 C.F.R. § 1051.115(d).
- j. “Person” includes individuals, corporations, partnerships, associations, states, municipalities, and political subdivisions of a state. CAA § 302(e), 42 U.S.C. § 7602(e).
- k. “Recreational” vehicle has the meaning provided in 40 C.F.R. § 1051.801.

14. Certification Requirements:

- a. The EPA’s certification program is designed to ensure that every vehicle sold or imported into the United States conforms in all material respects to a vehicle that has been approved by the EPA. The EPA approves vehicles by issuing certificates of conformity (COC).
- b. To obtain a COC, a manufacturer (or affiliate) must submit a COC application to the EPA for each engine family and each model year that it intends to manufacture and sell in the United States. 40 C.F.R. §§ 86.416-80, 1051.201(a).

- c. The COC application must include, among other things, identification of the covered engine family, a description of the vehicles and their emission control system, and test results from a prototype emissions data vehicle (EDV) showing that the EDV satisfies the emission standards in 40 C.F.R. § 86.410-2006 for highway motorcycles or 40 C.F.R. § 1051.107 for all-terrain vehicles (a subset of recreational vehicles). 40 C.F.R. §§ 86.416-80, 1051.205.
- d. In the case of highway motorcycles, the COC application must also include a description of all fuel system components and the range of available fuel and ignition system adjustments on the vehicle. 40 C.F.R. § 86.416-80. This description must specify all adjustable parameters, and the EPA has determined that adjustment of the following parameters may affect emissions: idle mixture screw (a low-speed, fuel-system adjustment of the air-to-fuel ratio) and a jet needle with multiple grooves for adjustment (a mid-range, fuel-system adjustment of the air-to-fuel ratio). In reviewing a COC application, the EPA evaluates the adjustability of the parameters based on information provided in the COC application. Upon inspection, if and when that occurs, to determine the adequacy of stops, seals, or locks, the EPA will consider whether the average operator or mechanic could deactivate the stops, seals, or locks in a reasonable amount of time using common hand tools. EPA Advisory Circular MC-6 (1978), *available at* [http://iaspub.epa.gov/otaqpub/display\\_file.jsp?docid=14384&flag=1](http://iaspub.epa.gov/otaqpub/display_file.jsp?docid=14384&flag=1) (last visited June 16, 2014).

- e. In the case of recreational vehicles, the COC application must describe all adjustable parameters and other adjustments on vehicles in the engine family. 40 C.F.R. § 1051.205(q). Where a recreational vehicle has adjustable parameters or other adjustments, the applicant must demonstrate that the vehicle meets emission standards throughout the adjustable range. 40 C.F.R. § 1051.115(c), (d).
- f. Once issued, a COC covers only those vehicles that are within the engine family specified in the application, marked with a model name specified in the application, produced during the model year, and imported subsequent to the effective date of the COC. 40 C.F.R. §§ 86.407-78(a), 86.437-78(a)(2), 86.437-78(a)(2)(ii), (iii), 86.437-78(b)(3), (4), 1051.201(a), 1051.205, 1068.101(a)(1)(i), (b)(5), 1068.103(a), (c)(2).
- g. The EPA issues COCs on such terms as the EPA deems necessary to ensure that any new motorcycle covered by the COC will meet the requirements of the CAA and its regulation 40 C.F.R. § 86.437-78(a)(2)(ii), (b)(3).
- h. By the terms on the face of each COC, a COC covers only those highway motorcycles that conform in all material respects to the EDV tested for that COC and all other specifications in the COC application. *See also* 40 C.F.R. § 86.437-78(a)(2)(iii), (b)(4).
- i. A COC covers only those recreational vehicles that conform in all material respects to the specifications in the COC application. 40 C.F.R. § 1068.103.
- j. Crankcase emissions from recreational vehicles may not be discharged directly into the ambient atmosphere. 40 C.F.R. § 1051.115(a).



- k. The CAA prohibits manufacturers of new motor vehicles from selling, offering for sale, introducing into commerce, delivering for introduction into commerce, or importing (and no person may cause any of the foregoing with respect to) any new motor vehicle unless that vehicle is covered by an EPA-issued COC. CAA § 203(a)(1), 42 U.S.C. § 7522(a)(1).
  - l. A manufacturer may not sell, offer for sale, introduce into commerce, deliver for introduction into commerce, or import (and no person may cause any of the foregoing with respect to) a recreational vehicle unless the recreational vehicle is covered by an EPA-issued COC. 40 C.F.R. § 1068.101(a)(1).
15. Warranty Requirements: Vehicle manufacturers and COC holders must honor their emission-related warranty under 40 C.F.R. §§ 1051.120 and 1068.115. 40 C.F.R. § 1068.101(b)(6). In the case of recreational vehicles, this includes stating in each vehicle's owners' manual the emission-related warranty.
16. Recordkeeping Requirements:
- a. Anyone subject to any CAA requirement for vehicles must provide information to the EPA that the EPA may reasonably require in order to determine whether the manufacturer or other person has acted or is acting in compliance with the CAA and its regulations. 42 U.S.C. § 7542(a).
  - b. Highway motorcycle COC holders must establish, maintain, and retain certain adequately organized and indexed records. 40 C.F.R. § 86.440-78. These records include completed COC applications, identification and description of EDVs, a complete record of all emission tests performed on EDVs including test results, the date of each service accumulation run, a record and description

of all maintenance and other servicing performed on the EDV, a record and description of each test performed to diagnose engine or emissions control system performance, and a brief description of any significant events affecting the vehicle during testing. 40 C.F.R. § 86.440-78.

- c. Recreational vehicle COC holders must keep certain records including: (1) certification applications and accompanying summary information; (2) records specified in 40 C.F.R. § 1051.250 but not included in the COC application; (3) a detailed history of each EDV; (4) production figures for each engine family divided by assembly plant; and (5) vehicle identification numbers for all the vehicles produced under each certificate. 40 C.F.R. § 1051.250(b). This data must be kept for eight years, except for routine emission tests which must be kept for one year. 40 C.F.R. § 1051.250(c).

17. Anyone who, since January 12, 2009, sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported (or caused the foregoing with respect to) a highway motorcycle or recreational vehicle that was not covered by a COC, or violated warranty requirements is subject to a civil penalty of up to \$37,500 for each such vehicle. 42 U.S.C. § 7524(a); 40 C.F.R. §§ 19.4, 1068.101(a)(1), (b)(6), (c).

18. Anyone who, since January 12, 2009, failed to keep or maintain mandatory records or failed to provide the EPA with information reasonably required to assess their compliance with the Act is subject to a civil penalty up to \$37,500 for each such record for each day they are in violation. CAA §§ 203(a)(2)(A), 205(a), 208, 42 U.S.C. §§ 7522(a)(2)(A), 7524(a), 7542(a); 40 C.F.R. §§ 19.4, 1068.101(a)(2).

### **Alleged Violations of Law**

19. Respondents are each a person under section 302(e) of the CAA, 42 U.S.C. § 7602(e).
20. Peace USA is a manufacturer as that term is defined by section 216(1) of the CAA, 42 U.S.C. § 7550(1).
21. Blue Eagle is a manufacturer as that term is defined by section 216(1) of the CAA, 42 U.S.C. § 7550(1).
22. Zhejiang Peace is a manufacturer as that term is defined by section 216(1) of the CAA, 42 U.S.C. § 7550(1).
23. Bashan is a manufacturer as that term is defined by section 216(1) of the CAA, 42 U.S.C. § 7550(1).
24. Peace USA and Blue Eagle submitted COC applications, and the EPA granted COCs, for every engine family at issue in this matter. Table A, below, identifies which company held COCs for which engine families.
25. Zhejiang Peace and Bashan manufactured or assembled every vehicle in this matter. Table A, below, identifies which company manufactured or assembled which vehicles.
26. Zhejiang Peace delivered for introduction into United States commerce every vehicle in this matter.
27. Bashan delivered for introduction into United States commerce every vehicle in this matter that Bashan manufactured or assembled.
28. Peace USA imported and introduced into United States commerce every vehicle in this matter.

29. Blue Eagle caused the sale, offering for sale, introduction into commerce, delivery for introduction into commerce, or importation of every vehicle in this matter that is within an engine family for which Blue Eagle held a COC.

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

30. Highway Motorcycle Certification Violations: The EPA alleges that one or more of the Respondents (as identified below in COUNTS ONE and TWO) sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported (or caused the foregoing with respect to) approximately 10,707 highway motorcycles that were not covered by a COC in violation of section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1).

- a. COUNT ONE: alleged violations by Peace USA, Zhejiang Peace, and Bashan: approximately 7,895 highway motorcycles purportedly covered by the COC

for engine family 9PCGC.050SAA. These vehicles do not conform in all material respects to the certified configuration and, therefore, are not covered by the COC for engine family 9PCGC.050SAA (nor any other COC) for four independently sufficient reasons:

- i. these vehicles' catalytic converters did not conform to that which was described in the COC application for this engine family;
  - ii. these vehicles' carburetors were equipped with adjustable parameters or other adjustments whereas the COC application described a carburetor without adjustable parameters;
  - iii. these vehicles were equipped with carburetors whose manufacturer and part number do not match the manufacturer and part number stated in the COC application for this engine family; and
  - iv. these vehicles' engine displacement was 62 cubic centimeters whereas the COC application stated that the engine displacement is 49 cubic centimeters.
- b. COUNT TWO: alleged violations by Peace USA, Zhejiang Peace, Bashan, and Blue Eagle: approximately 2,812 highway motorcycles purportedly covered by the COC for engine family ABLEC.049PCE. These vehicles do not conform in all material respects to the certified configuration and, therefore, are not covered by the COC for engine family ABLEC.049PCE (nor any other COC) for two independently sufficient reasons:

- i. these vehicles' carburetors were equipped with adjustable parameters or other adjustments whereas the COC application described a carburetor without adjustable parameters; and
- ii. these vehicles were equipped with carburetors whose manufacturer and part number do not match the manufacturer and part number stated in the COC application for this engine family.

31. Recreational Vehicle Certification Violations: The EPA alleges that one or more of the Respondents (as identified below in COUNTS THREE, FOUR, and FIVE) sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported (or caused the foregoing with respect to) approximately 12,252 recreational vehicles that were not covered by a COC in violation of 40 C.F.R.

§ 1068.101(a)(1).

a. COUNT THREE: alleged violations by Peace USA, Zhejiang Peace, and Blue Eagle: approximately 5,908 recreational vehicles purportedly covered by the COC for engine family 9BLEX0.11PCE. These vehicles do not conform in all material respects to the certified configuration and, therefore, are not covered by the COC for engine family 9BLEX0.11PCE (nor any other COC) for two independently sufficient reasons:

- i. these vehicles' carburetors were equipped with adjustable parameters or other adjustments whereas the COC application described a carburetor without adjustable parameters; and
- ii. these vehicles' crankcases discharged emissions directly into the ambient atmosphere violating 40 C.F.R. § 1051.115(a).

- b. COUNT FOUR: alleged violations by Peace USA, Zhejiang Peace, and Blue Eagle: approximately 6,122 recreational vehicles purportedly covered by the COC for engine family ABLEX0.11PCE. These vehicles do not conform in all material respects to the certified configuration and, therefore, are not covered by the COC for engine family ABLEX0.11PCE (nor any other COC). Specifically, these vehicles' carburetors were equipped with adjustable parameters or other adjustments whereas the COC application described a carburetor without adjustable parameters.
  - c. COUNT FIVE: alleged violations by Peace USA and Zhejiang Peace: approximately 222 recreational vehicles purportedly covered by the COC for engine family APCGX.150AAA. These vehicles do not conform in all material respects to the certified configuration and, therefore, are not covered by the COC for engine family APCGX.150AAA (nor any other COC) for two independently sufficient reasons:
    - i. these vehicles' catalytic converters did not conform to that which was described in the COC application for this engine family; and
    - ii. these vehicles' carburetors were equipped with adjustable parameters or other adjustments whereas the COC application described a carburetor without adjustable parameters.
32. COUNT SIX: Recreational Vehicle Warranty Violations: The EPA alleges that one or more of Peace USA, Zhejiang Peace, and Blue Eagle failed to meet their warranty obligations with regard to approximately 5,908 recreational vehicles from engine family 9BLEX0.11PCE in violation of 40 C.F.R. § 1068.101(b)(6). Specifically, one

or more Respondents sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported (or caused the foregoing with respect to) approximately 5,908 recreational vehicles whose owner's manual failed to state the emissions-related warranty required by 40 C.F.R. § 1051.120(e).

33. Recordkeeping Violations: The EPA alleges the following two counts concerning Peace USA's failure to adequately keep and maintain mandatory records in violation of section 203(a)(2)(A) of the CAA, 42 U.S.C. § 7522(a)(2)(A), and 40 C.F.R. § 1068.101(a)(2).

- a. COUNT SEVEN: Highway Motorcycle Recordkeeping Violations: Peace USA failed to keep the records required by 40 C.F.R. § 86.440-78(a)(2)(A)–(B) for engine families 9PCGC.050SAA, 9PCGC.150SA, and APCGC.150SA1.
- b. COUNT EIGHT: Recreational Vehicle Recordkeeping Violations: Peace USA failed to keep the records required by 40 C.F.R. § 1051.250(b)(2)–(3) for engine families 9PCGX.150AAA, 9PCGX.250AMA, APCGX.150AAA, and APCGX.250AMA.



**Relief Sought: Civil Penalty**

34. Complainant seeks administrative penalties against the Respondents for the Alleged Violations of Law. Specifically, Complainant seeks administrative penalties, jointly and severally, against the Respondents and for the claims set forth below in Table B:

<b>Table B: Summary of Penalties Sought Per Count</b>				
<b>Count</b>	<b>Peace USA</b>	<b>Zhejiang Peace</b>	<b>Bashan</b>	<b>Blue Eagle</b>
<b>1</b>	Y	Y	Y	
<b>2</b>	Y	Y	Y	Y
<b>3</b>	Y	Y		Y
<b>4</b>	Y	Y		Y
<b>5</b>	Y	Y		
<b>6</b>	Y	Y		Y
<b>7</b>	Y			
<b>8</b>	Y			

35. Complainant makes no specific penalty demand in this Complaint, as authorized by 40 C.F.R. § 22.14(a)(4)(ii).
36. 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 vehicle. In addition, Peace USA is subject to a civil penalty that is the sum of not more than \$37,500 per day per recordkeeping violation.
37. Complainant reserves its right to seek the maximum civil penalty authorized by the CAA.
38. In determining the amount of the civil penalty in this matter, the CAA requires that the 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 the [Respondents’] business, [Respondents’] history of compliance with this subchapter, action taken to remedy the violation, the effect of the penalty on

[Respondents'] ability to continue in business, and such other matters as justice may require." CAA § 205(c)(2), 42 U.S.C. § 7524(c)(2).

39. Regarding alleged certification and warranty violations (COUNTS ONE to SIX), Complainant proposes to account for the CAA's penalty factors by using the EPA's Clean Air Act Mobile Source Civil Penalty Policy – Vehicle and Engine Certification Requirements (2009) (Penalty Policy), *available at* [http://www2.epa.gov/sites/production/files/documents/vehicleengine-penalty-policy\\_0.pdf](http://www2.epa.gov/sites/production/files/documents/vehicleengine-penalty-policy_0.pdf) (last visited June 16, 2014). 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 considered to be of "major" egregiousness and warranty violations are considered to be of "moderate" egregiousness. Penalty Policy at 13 & 14. Here, Complainant alleges certification violations for approximately 10,707 highway motorcycles and approximately 12,252 recreational vehicles and warranty violations for approximately 5,908 recreational vehicles.
40. Regarding alleged recordkeeping violations (COUNTS SEVEN and EIGHT), Complainant proposes to account for the CAA's penalty factors by quantifying the number of records Peace USA allegedly failed to keep or provide to EPA. Then, for each record (or category of records, as appropriate), Complainant proposes an individual penalty that accounts for the egregiousness of that failure. Complainant also proposes to count recordkeeping violations in this manner separately for each engine family for which there are recordkeeping violations. Egregiousness increases with the extent of the missing information, the disorganization of the information, the

number of vehicles involved, the risk of unlawful emissions from those vehicles, and importance of the missing information to understanding vehicle emissions, assessing compliance, and facilitating recalls and other remediation. Thus, Complainant proposes a civil penalty for recordkeeping violations that is the sum of individually tailored penalties for each recordkeeping violation. Here, Complainant alleges at least 14 distinct recordkeeping violations.

### **Opportunity to Request a Hearing**

41. Respondents have a right to request a Hearing on any material fact alleged in this Complaint or the appropriateness of a civil penalty. Respondent may request such a Hearing in a written Answer. 40 C.F.R. § 22.15(c).
42. 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**

43. If Respondents contest material facts upon which this Complaint is based, contend that a civil penalty is inappropriate, or contend that Respondents are entitled to judgment as a matter of law, then Respondents must file an original and one copy of a written Answer(s) within 30 days of receiving this Complaint that conform to 40 C.F.R. § 22.15. 40 C.F.R. § 22.14(c).
44. Respondents may file an Answer(s) 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 (last visited June 16, 2014); *see also* EPA Office of Administrative Law Judges, *Notice of Change of Address*, available at [http://www.epa.gov/oalj/orders/MoveNotice\\_3\\_8\\_13.pdf](http://www.epa.gov/oalj/orders/MoveNotice_3_8_13.pdf) (last visited June 16, 2014). 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  
Office of Administrative Law Judges  
Ronald Reagan Building, Rm. M1200  
1300 Pennsylvania Ave., N.W.  
Washington, DC 20460

If filing by United States Postal Service, address to:

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

45. Respondents must also send a copy of the Answer(s) to the EPA attorney assigned to this matter, Evan M. Belser. The Answer shall be served personally, by USPS (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 (except Express Mail), Respondents must use the following address:

Evan M. Belser  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Mailcode 2242A  
Washington, DC 20460

If using USPS Express Mail or any other carrier, Respondents must use the following address:

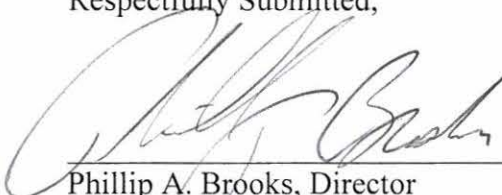
Evan M. Belser  
U.S. EPA, Air Enforcement Division  
1200 Pennsylvania Ave., N.W.  
William J. Clinton Federal Building, Room 1142B  
Washington, DC 20004

46. Respondents' failure to request a Hearing or to file a written Answer within the 30 days after receiving this Complaint may result in the wavier of their right to contest allegations set forth in this Complaint or a default judgment pursuant to 40 C.F.R. §§ 22.14(c), 22.17.

Respectfully Submitted,

6/27/2014

Date



Phillip A. Brooks, Director  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance

1200 Pennsylvania Ave., N.W.  
William J. Clinton Federal Building  
Room 1117, Mailcode 2242A  
Washington, DC 20460  
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June 24, 2014

Date



Evan M. Belser, Attorney Adviser  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance

1200 Pennsylvania Ave., N.W.  
William J. Clinton Federal Building  
Room 1142B, Mailcode 2242A  
Washington, DC 20460  
(202)564-6850  
belser.evan@epa.gov

CERTIFICATE OF SERVICE

I certify that the original and one copy of the foregoing Complaint *In the Matter of Peace Industry Group (USA), Inc., et al.*, was filed on the date below by hand delivery with the EPA Office of Administrative Law Judges at the address listed below:

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

I certify that I sent, by United States Postal Service Certified Mail, one copy of the foregoing Complaint and one copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, to each of the following Respondents at the address below on the date below: Peace USA, Zhejiang Peace, and Bashan:

Peace Industry Group (USA), Inc.  
Attention: Quiping Wang  
2649 Mountain Industrial Blvd.  
Tucker, GA 30084

I certify that I sent, by United States Postal Service Certified Mail, one copy of the foregoing Complaint and a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22, to each of the following Respondents at the address below on the date below: Zhejiang Peace, Bashan, and Blue Eagle:

Blue Eagle Motor, Inc.  
Attention: Yuping Lu  
2649 Mountain Industrial Blvd.  
Tucker, GA 30084

June 27, 2014  
Date



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