

**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.)	

**MOTION FOR ADDITIONAL DISCOVERY
THROUGH REQUESTS FOR ADMISSIONS**

The Director of the Air Enforcement Division of the U.S. Environmental Protection Agency’s Office of Civil Enforcement (“Complainant”) files this Motion for Additional Discovery Through Requests for Admissions. The Hearing Notice and Order (“Order”) dated May 9, 2017, scheduled the hearing in this matter to begin on July 18, 2017. The Order stated that the time allotted for hearing is limited, and directed the parties to “make a good faith effort to stipulate as much as possible to matters that cannot reasonably be contested.” The parties met on June 8, 2017, and June 12, 2017, to discuss the potential for making stipulations pertaining to facts and documents in Complainant’s Prehearing Exchange, but were unable to reach agreement. *See* Status Report dated June 16, 2017. Respondents oppose this Motion.

The Consolidated Rules of Practice provide that after the prehearing exchange of information, the Presiding Officer may order additional discovery if it:

- (i) Will neither unreasonably delay the proceeding nor unreasonably burden the non-moving party;
- (ii) Seeks information that is most reasonably obtained from the non-moving party, and which the non-moving party has refused to provide voluntarily; and
- (iii) Seeks information that has significant probative value on a disputed issue of material fact relevant to liability or the relief sought.

40 C.F.R. § 22.19(e)(1).

Complainant respectfully requests that the Presiding Officer issue an order directing the respondents in this matter, Taotao USA, Inc., Taotao Group Co., Ltd., and Jinyun Xiangyuan

Industry Co., Ltd. (collectively “Respondents”) to respond to the requests for admissions filed and served as Attachment A to this Motion. Directing Respondents to respond to the requests for admissions will neither unreasonably delay this proceeding nor unreasonably burden the Respondents. The requests are limited in scope to matters set forth in Complainant’s Prehearing Exchange that do not appear to be in genuine dispute. Resolving these matters now will enable the hearing to be concise and focused on those matters that can only be resolved after an evidentiary hearing. Complainant expects the burden of admitting the asserted facts or providing a basis for denying them will be minimal.

The requests seek information that is most reasonably obtained from Respondents, i.e., whether they dispute the assertions of fact and their bases for doing so. Efforts to develop voluntary stipulations of fact have not been successful.

Finally, the requests seek admissions about facts or documents that have significant probative value to the calculation of the penalty or to Respondents’ anticipated defenses. Particularly, the requests seek admissions about the truth, accuracy, and completeness of copies of Respondents’ applications for certificates of conformity (CX001 through CX010); respondent Taotao USA, Inc.’s corporate documents and filing with the Texas Secretary of State (CX030 through CX031); Respondents’ certificates of conformity (CX043 through CX052); the Administrative Settlement Agreement dated June 28, 2010, signed by Matao Cao on behalf of Taotao USA, Inc. (CX067); Respondents’ response to a March 28, 2016 Request for Information under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a) (CX154); and Respondent Taotao USA, Inc.’s federal income tax returns for years 2012 through 2015 (CX161 through CX163, CX171). The requests also seek admissions about the engine power of the vehicles identified in the Amended Complaint, the number of vehicles detained and thus deemed remediated, and the number of vehicles imported after dates on which inflation-adjusted penalty amounts took effect.

For the foregoing reasons, Complainant requests that this Tribunal order Respondents to respond to the requests for admissions filed and served as Attachment A to this Motion. Complainant requests that Respondents’ be required to serve and to file their response by the earlier of fourteen (14) calendar days from the date of an order granting this Motion, or fifteen (15) calendar days prior to the date the hearing in this matter is scheduled to begin.

Respectfully Submitted,

6/23/2017
Date



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Jinyun County Xiangyuan Industry Co., Ltd.)	
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**MOTION FOR ADDITIONAL DISCOVERY
THROUGH REQUESTS FOR ADMISSIONS
ATTACHMENT A**

Pursuant to 40 C.F.R. § 22.19(e) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, Complainant hereby propounds these Requests for Admissions to Respondents Taotao USA, Inc., Taotao Group Co., Ltd., and Jinyun County Xiangyuan Industry Co., Ltd. (collectively “Respondents”). Complainant requests that the full and complete answers, in writing and sworn or certified under penalty of law, be served on Complainant’s counsel and filed with the U.S. Environmental Protection Agency’s Office of Administrative Law Judges the earlier of fourteen (14) calendar days from the date of an order granting Complainant’s Motion for Additional Discovery Through Requests for Admissions, or fifteen (15) calendar days prior to the date the hearing in this matter is scheduled to begin.

Clearly admit or deny each of the factual allegations contained herein. If an allegation is not admitted, the answer to the allegation must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter and provide the factual or legal basis for the denial. When good faith requires

Respondents to qualify an answer or deny only a part of the allegation, the answer must specify the part admitted and qualify or deny the rest. Respondents may assert lack of knowledge as a reason for failing to admit or deny only if Respondents state they have made reasonable inquiry and that the information they know or can readily obtain is insufficient to enable Respondents to admit or deny.

REQUESTS FOR ADMISSIONS

1. The following documents that have been marked as Complainant's exhibits and given bates numbers, and were filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, are true, accurate, and complete copies of the original documents, except for the exhibit marks and bates numbers:

- a. CX001
- b. CX002
- c. CX003
- d. CX004
- e. CX005
- f. CX006
- g. CX007
- h. CX008
- i. CX009
- j. CX010
- k. CX030
- l. CX031
- m. CX043
- n. CX044

- o. CX045
 - p. CX046
 - q. CX047
 - r. CX048
 - s. CX049
 - t. CX050
 - u. CX051
 - v. CX052
 - w. CX067
 - x. CX154
2. Respondents provided the documents marked Complainant's exhibits CX001, CX002, CX003, CX004, CX005, CX006, CX007, CX008, CX009, and CX010 to EPA for the purpose of obtaining EPA Certificates of Conformity for the engine families identified in the documents.
3. The following documents that have been marked as Complainant's exhibits and given bates numbers, and were filed with Complainant's Rebuttal Prehearing Exchange dated October 13, 2016, are true, accurate, and complete copies of the original documents, except for the exhibit marks and bates numbers:
- a. CX161
 - b. CX162
 - c. CX163
4. Taotao USA, Inc. provided the documents marked as Complainant's exhibits CX161, CX162, and CX163, to the EPA.

5. The following document that has been marked as Complainant's exhibit and given bates numbers, and was filed with Complainant's First Motion to Supplement the Prehearing Exchange dated November 28, 2016, is a true, accurate, and complete copy of the original document, except for the exhibit marks and bates numbers:
 - a. CX171
6. One (1) kilowatt is equal to 1.34102 horsepower.
7. The "Carry-Over Application for 2014 Model Year EPA Certificate" for engine family ETAOC.049MC2, marked as Complainant's Exhibit CX001 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family ETAOC.049MC2 as 2.2 kilowatts. *See* CX001, EPA-000008.
8. The "Carry Over Application for 2013 Model Year EPA Certificate" for engine family DTAOC.150MC2, marked as Complainant's Exhibit CX002 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOC.150MC2 as 5.5 kilowatts. *See* CX002, EPA-000044.
9. The "Application for 2013 Model Year EPA Certificate" for engine family DTAOC.049MC2, marked as Complainant's Exhibit CX003 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOC.049MC2 as 2.2 kilowatts. *See* CX003, EPA-000087.
10. The "Carry-Over Application for 2012 Model Year EPA Certificate" for engine family CTAOC.049MC1, marked as Complainant's Exhibit CX004 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated

power of vehicles in engine family CTAOC.049MC1 as 2.2 kilowatts. *See* CX004, EPA-000123.

11. The “Carry-Over Application for 2014 Model Year EPA Certificate” for engine family ETAOX0.12A1T, marked as Complainant’s Exhibit CX005 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family ETAOX0.12A1T as either 8 kilowatts or 4.5 kilowatts. *See* CX005, EPA-000158.
12. The “Carry-Over Application for 2014 Model Year EPA Certificate” for engine family ETAOX0.12A1T, marked as Complainant’s Exhibit CX005 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, projects that one half of the vehicles in engine ETAOX0.12A1T will have a rated power of 8 kilowatts. *See* CX005, EPA-000158, EPA-000172.
13. The “Carry-Over Application for 2014 Model Year EPA Certificate” for engine family ETAOX0.12A1T, marked as Complainant’s Exhibit CX005 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, projects that one half of the vehicles in engine ETAOX0.12A1T will have a rated power of 4.5 kilowatts. *See* CX005, EPA-000158, EPA-000172.
14. The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.15G2T, marked as Complainant’s Exhibit CX006 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOX0.15G2T as either 5.5 kilowatts or 4.8 kilowatts. *See* CX006, EPA-000194.
15. The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.15G2T, marked as Complainant’s Exhibit CX006 and filed with

Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that two-thirds of the vehicles in engine family DTAOX0.15G2T will have a rated power of 5.5 kilowatts. *See* CX006, EPA-000194, EPA-000208.

16. The "Carry-Over Application for 2013 Model Year EPA Certificate" for engine family DTAOX0.15G2T, marked as Complainant's Exhibit CX006 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that one-third of the vehicles in engine family DTAOX0.15G2T will have a rated power of 4.8 kilowatts. *See* CX006, EPA-000194, EPA-000208.

17. The "Carry-Over Application for 2013 Model Year EPA Certificate" for engine family DTAOX.124AAA, marked as Complainant's Exhibit CX007 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOX.124AAA as either 5 kilowatts or 3.4 kilowatts. *See* CX007, EPA-000227.

18. The "Carry-Over Application for 2013 Model Year EPA Certificate" for engine family DTAOX.124AAA, marked as Complainant's Exhibit CX007 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX.124AAA will have a rated power of 5 kilowatts. *See* CX007, EPA-000227, EPA-000240.

19. The "Carry-Over Application for 2013 Model Year EPA Certificate" for engine family DTAOX.124AAA, marked as Complainant's Exhibit CX007 and filed with Complainant's Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX.124AAA will have a rated power of 3.4 kilowatts. *See* CX007, EPA-000227, EPA-000240.

20. The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.12A1T, marked as Complainant’s Exhibit CX008 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family DTAOX0.12A1T as either 8 kilowatts or 4.5 kilowatts. *See* CX008, EPA-000259.
21. The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.12A1T, marked as Complainant’s Exhibit CX008 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX0.12A1T will have a rated power of 8 kilowatts. *See* CX008, EPA-000259, EPA-000273.
22. The “Carry-Over Application for 2013 Model Year EPA Certificate” for engine family DTAOX0.12A1T, marked as Complainant’s Exhibit CX008 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, projects that one-half of the vehicles in engine family DTAOX0.12A1T will have a rated power of 4.5 kilowatts. *See* CX008, EPA-000259, EPA-000273.
23. The “Carry-Over Application for 2015 Model Year EPA Certificate” for engine family FTAOX0.15G2T, marked as Complainant’s Exhibit CX009 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family FTAOX0.15G2T as 5.5 kilowatts. *See* CX009, EPA-000295.
24. The “Carry-Over Application for 2016 Model Year EPA Certificate” for engine family GTAOX0.15G2T, marked as Complainant’s Exhibit CX010 and filed with Complainant’s Initial Prehearing Exchange dated August 25, 2016, identifies the rated power of vehicles in engine family GTAOX0.15G2T as 5.5 kilowatts. *See* CX010, EPA-000328.

25. Two (2) vehicles purportedly belonging to engine family FTAOX0.15G2T, identified in Count 9 of the Amended Complaint filed by Complainant against Respondents on June 14, 2006, were seized, destroyed, exported, or otherwise remediated. *See* CX154, EPA-002040.
26. Sixty-four (64) vehicles purportedly belonging to engine family GTAOX0.15G2T, identified in Count 10 of the Amended Complaint filed by Complainant against Respondents on June 14, 2006, were seized, destroyed, exported, or otherwise remediated. *See* CX154, EPA-002040, EPA-002043.
27. All vehicles purportedly belonging to engine families ETAOC.049MC2 (Count 1), DTAOC.150MC2 (Count 2), DTAOC.049MC2 (Count 3), CTAOC.049MC1 (Count 4), ETAOX0.12A1T (Count 5), DTAOX0.15G2T (Count 6), DTAOX.124AAA (Count 7), and DTAOX0.12A1T (Count 8), were imported into the United States on or before December 6, 2013.
28. One-thousand two-hundred and fifty-one (1,251) vehicles purportedly belonging to engine family FTAOX0.15G2T, identified in Count 9 of the Amended Complaint, were imported into the United States after December 6, 2013, but before November 3, 2015. *See* CX060, EPA-000659; CX154, EPA-002028 through EPA-002040.
29. Thirty-nine (39) vehicles purportedly belonging to engine family FTAOX0.15G2T, identified in Count 9 of the Amended Complaint, were imported into the United States after November 2, 2015. *See* CX154, EPA-002028 through EPA-002040.
30. Three-hundred and ninety-one (391) vehicles purportedly belonging to engine family GTAOX0.15G2T, identified in Count 10 of the Amended Complaint, were imported into the United States after November 2, 2015. *See* CX154, EPA-002039 through EPA-002045.

Respectfully Submitted,

6/23/2017
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CERTIFICATE OF SERVICE

I certify that the foregoing Motion for Additional Discovery Through Requests for Admissions (“Motion”) in the *Matter of Taotao USA, Inc., et al.*, Docket No. CAA-HQ-2015-8065, was filed and served on the Presiding Officer this day through the Office of Administrative Law Judge’s E-Filing System.

I certify that an electronic copy of this Motion was sent this day by e-mail to the following e-mail addresses for service on Respondents’ counsel: William Chu at wmchulaw@aol.com, and Salina Tariq at stariq.wmchulaw@gmail.com. I further certify that three copies of the foregoing Motion were sent this day by certified mail, return receipt requested, for service on Respondents’ counsel at the address listed below:

William Chu, Esq.
The Law Offices of William Chu
4455 LBJ Freeway, Suite 909
Dallas, TX 75244

6/23/2017
Date



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