

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In the Matter of:

AMERICAN LIFAN INDUSTRY, INC.

Respondent.

Docket No.  
CAA-HQ-2014-8034

**CONSENT AGREEMENT**

**Preliminary Statement**

1. This is a civil administrative penalty assessment proceeding instituted under section 205(c)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7524(c)(1). The issuance of this Consent Agreement and attached Final Order simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).
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 and settle civil administrative penalty assessment proceedings 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 Redefinition 7-6-A (March 5, 2013); Office of Civil Enforcement Redefinition 7-6-A (March 5, 2013).

3. Respondent in this matter is American Lifan Industry, Inc. Respondent is a corporation organized under the laws of the State of Texas with an office at 10888 San Sevaine Way, Suite B, Mira Loma, CA 91752.
4. Respondent holds EPA certificates of conformity and imports highway motorcycles, recreational vehicles, and gasoline engines manufactured by Chongqing Lifan Industry (Group) Co., Ltd., China Lifan Industry (Group) Co., Ltd., and Lifan Industry (Group) Co., Ltd. (collectively, “China Lifan”).
5. China Lifan manufactures highway motorcycles, recreational vehicles, gasoline engines, and gasoline-powered generators. Lifan Industry (Group) Co., Ltd. also holds EPA certificates of conformity.
6. The EPA and Respondent, having agreed to settle this action, consent to the entry of this Consent Agreement and the attached Final Order before taking testimony and without adjudication of any issues of law or fact herein, and agree to comply with the terms of this Consent Agreement and the attached Final Order.

### **Jurisdiction**

7. This Consent Agreement is entered into under section 205(c)(1) of the 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”).
8. The EPA may administratively assess a civil penalty if the penalty sought is less than \$320,000. CAA § 205(c)(1), 42 U.S.C. § 7524(c)(1), 40 C.F.R. §§ 19.4, 90.1006(c)(1), 1068.125(b); Civil Monetary Penalty Inflation Adjustment Rule,

- 78 Fed. Reg. 66,643 (November 6, 2013) (to be codified at 40 C.F.R. § 19.4); *see* 40 C.F.R. § 90.1006(a)(6) (defining a violation of 40 C.F.R. § 90.1003(a) as being a violation of CAA §§ 203 and 213(d), 42 U.S.C. §§ 7522 and 7547(d)).
9. The Administrator and the Attorney General jointly determined that this matter, although it involves a penalty amount greater than \$320,000, is appropriate for administrative penalty assessment. CAA § 205(c)(1), 42 U.S.C. § 7524(c)(1); 40 C.F.R. §§ 90.1006(c), 1068.125(b).
10. The Environmental Appeals Board is authorized to issue consent orders memorializing settlements between the EPA and Respondent resulting from administrative enforcement actions under the CAA, and to issue final orders assessing penalties under the CAA. 40 C.F.R. § 22.4(a)(1); EPA Delegation 7-41-C.
11. The Consolidated Rules provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order. 40 C.F.R. §§ 22.13(b), 22.18(b).

### **Governing Law**

12. This proceeding arises under Part A of Title II of the CAA, CAA §§ 202-219, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including hydrocarbons, oxides of nitrogen, and carbon monoxide. The Alleged Violations of Law, stated below, regard on-highway motorcycles, recreational vehicles, and stationary spark-ignition (“SI”) nonroad engines (collectively, the “Subject Vehicles

and Engines”). What follows is the governing law for each type of vehicle and engine.

13. General definitions:

- (a) “Person” includes individuals, corporations, partnerships, associations, states, municipalities, and political subdivisions of a state. CAA § 302(e), 42 U.S.C. § 7602(e).
- (b) “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 § 216(1), 42 U.S.C. § 7550(1).

14. Highway motorcycles:

- (a) The term “motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway. CAA § 216(2), 42 U.S.C. § 7550(2).
- (b) The term “motorcycle” refers to highway motorcycles and means a motor vehicle that weighs less than or equal to 793 kilograms (1,749 pounds) with a headlight, tail-light, stop-light, and two or three wheels. 40 C.F.R. § 86.402-98.

- (c) The vehicles identified herein as “highway motorcycles” meet the definition of “motorcycle” at 40 C.F.R. § 86.402-98, are a type of “motor vehicle,” and are subject to the emission standards and other requirements under 40 C.F.R. Part 86.
- (d) Model year 2006 and later highway motorcycles must satisfy air pollutant emission standards in 40 C.F.R. §§ 86.401-2006 and 86.410-2006. These emission standards impose limits on emissions of oxides of nitrogen, carbon monoxide, hydrocarbons, evaporative emissions, and impose other requirements.
- (e) No motorcycle may discharge crankcase emissions into the ambient atmosphere. 40 C.F.R. § 86.410-2006(d).
- (f) To demonstrate that a highway motorcycle satisfies emission and other standards, it must be covered by an EPA-issued certificate of conformity (“COC”). 40 C.F.R. § 86.407-78.
- (g) To obtain a COC, a manufacturer 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.
- (h) An application for a COC must include an identification and description of the vehicles covered by the application. 40 C.F.R. § 86.416-80(a)(2)(i). Each COC states that it covers only the models it names.
- (i) An application for a COC must identify the manufacturer of the vehicles. 40 C.F.R. § 86.416-80.

- (j) Each COC states that it “does not cover vehicles sold, offered for sale, introduced, or delivered for introduction into commerce in the U.S. prior to the effective date of the [COC].” Each COC also states that it covers only those vehicles produced during the model year production period stated on the COC. 40 C.F.R. § 86.437-78(a)(2)(ii).
- (k) Highway motorcycle COC applications must include a description of all fuel system components and the range of available fuel and ignition system adjustments. 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).
- (l) The EPA issues COCs on whatever terms the EPA deems necessary to ensure that any new motorcycle covered by the COC will meet the requirements of the CAA and its regulations. 40 C.F.R. § 86.437-78(a)(2)(ii), (b)(3). By the terms on the face of each COC, a COC covers “only those vehicles which

conform, in all material respects, to the design specifications that applied to those vehicles described in the documentation required by 40 C.F.R. Part 86.”

- (m) A manufacturer of any motorcycle shall, at the time of manufacture, affix a permanent and legible label that contains specified information. The label shall be affixed in such a manner that it cannot be removed without destroying or defacing the label. 40 C.F.R. § 86.413-2006(a).
- (n) The manufacturer of any motorcycle subject to the emission standards set forth in 40 C.F.R. Part 86 must provide information to the EPA that the EPA reasonably requires to determine whether the manufacturer or other person has acted or is acting in compliance with the CAA and its regulations. CAA § 208(a), 42 U.S.C. § 7542(a).
- (o) Additionally, highway motorcycle manufacturers 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.
- (p) Upon the EPA’s request, the manufacturer of any motorcycle covered by a COC shall, within 30 days, identify by vehicle identification number, the

vehicle(s) covered by the COC. 40 C.F.R. § 86.414-78(a).

- (q) Manufacturers are prohibited from selling, offering for sale, or introducing or delivering for introduction into commerce—or causing any of the foregoing—any new motor vehicle or new motor vehicle engine unless the vehicle or engine is covered by a COC issued by the EPA under regulations prescribed by the CAA. CAA § 203(a)(1), 42 U.S.C. § 7522(a)(1).
- (r) All persons are prohibited from importing or causing another to import a new motor vehicle or new motor vehicle engine into the United States unless that new motor vehicle or new motor vehicle engine is covered by an EPA-issued COC. CAA § 203(a)(1), 42 U.S.C. § 7522(a)(1).
- (s) Manufacturers are prohibited from selling or leasing a new motor vehicle or new motor vehicle engine unless that vehicle or engine bears a compliant emission control information (ECI) label. CAA § 203(a)(4)(A), 42 U.S.C. § 7522(a)(4)(A).
- (t) All persons are prohibited from failing to make reports or provide information required under the CAA and its regulations. CAA § 203(a)(2)(A), 42 U.S.C. § 7522(a)(2)(A)
- (u) Anyone who, between March 15, 2004, and January 12, 2009, sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported into the United States a highway motorcycle that was not covered by a COC or was improperly labeled—or anyone who caused any of the foregoing—is subject to a civil penalty of up to \$32,500 for each such vehicle. CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. §§ 19.4. This penalty amount



increased from \$32,500 to \$37,500 for violations which occur after January 12, 2009. 40 C.F.R. § 19.4.

- (v) Anyone who, between March 15, 2004, and 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 CAA are subject to a civil penalty up to \$32,500 for each day they are in violation. CAA §§ 203(a)(2)(A), 205(a), 208(a), 42 U.S.C. §§ 7522(a)(2)(A), 7524(a), 7542(a); 40 C.F.R. §§ 19.4. This penalty amount increased from \$32,500 to \$37,500 for violations since January 12, 2009. 40 C.F.R. § 19.4.

15. Recreational vehicles:

- (a) The term “recreational vehicle” includes all-terrain vehicles and off-highway motorcycles. 40 C.F.R. § 1051.801.
- (b) The term “all-terrain vehicle” is defined as a nonroad vehicle that either:
  - (a) is 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. 40 C.F.R. § 1051.801.
- (c) The term “off-highway motorcycle” is defined as a two-wheeled vehicle with a nonroad engine and a seat. 40 C.F.R. § 1051.801.
- (d) Each vehicle identified herein as a “recreational vehicle” or “all-terrain vehicle” or “off-highway motorcycle” meets the definition of such vehicle and

is subject to the emission standards and other requirements set forth in 40 C.F.R. Parts 1051 and 1068. The requirements of 40 C.F.R. Parts 1051 and 1068 also apply to new engines used in recreational vehicles. 40 C.F.R. §§ 1051.1(a), 1068.1(8).

- (e) Model year 2006 and later new recreational vehicles and engines with displacement less than or equal to 1000 cubic centimeters (“cc”), maximum engine power less than or equal to 30 kilowatts (kW), and maximum vehicle speed higher than 25 miles per hour must satisfy air pollutant emission standards in 40 C.F.R. §§ 1051.101–1051.115. 40 C.F.R. § 1051.1. These emission standards impose limits on emissions of oxides of nitrogen, carbon monoxide, hydrocarbon, and exhaust opacity.
- (f) To demonstrate that an imported recreational vehicle satisfies emission standards, it must be covered by an EPA-issued COC. 40 C.F.R. § 1068.301(b); *see* 40 C.F.R. Part 1051 Subpart C (outlining COCs and the application requirements).
- (g) An application for a COC must describe all adjustable parameters and other adjustments. 40 C.F.R. §§ 1051.115(c), 1051.205(q). An “adjustable parameter” is 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. “Other adjustments” include 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).

- (h) Each COC states that it “does not cover vehicles sold, offered for sale, introduced, or delivered for introduction into commerce in the U.S. prior to the effective date of the [COC].” *See also* 40 C.F.R. § 1068.103(c).
- (i) Each COC states that it covers “only those vehicles which conform, in all material respects, to the design specifications that applied to those vehicles described in the documentation required by 40 C.F.R. Part 1051.” *See also* 40 C.F.R. § 1068.103(a).
- (j) Owner’s manuals for all recreational vehicles and engines must contain emissions related warranty information. CAA § 203(a)(4), 42 U.S.C. § 7522(a)(4); 40 C.F.R. § 1051.120.
- (k) Additionally, recreational vehicle manufacturers and 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 certificate 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). A COC holder’s failure to keep these records constitutes a violation. 40 C.F.R. § 1068.101(a)(2).

- (l) Manufacturers are prohibited from selling, offering for sale, introducing into commerce, or delivering for introduction into commerce in the United States a model year 2006 or later recreational vehicle—or causing any of the foregoing—unless that recreational vehicle is covered by a COC. CAA §§ 203(a)(1), 213(d), 42 U.S.C. §§ 7522(a)(1), 7547(d); 40 C.F.R. § 1068.101(a)(1); *see* CAA § 216(1), 42 U.S.C. § 7550(1), 40 C.F.R. § 1068.30 (defining *manufacturer* to include importers).
- (m) All persons are prohibited from importing or causing another to import a new recreational vehicle into the United States unless that vehicle is covered by an EPA-issued COC. 40 C.F.R. § 1068.101(a)(5).
- (n) All persons are prohibited from selling or leasing a model year 2006 or later recreational vehicle unless it has complied with the warranty requirements. CAA §§ 203(a)(4)(D), 213(d), 42 U.S.C. §§ 7522(a)(4)(D), 7547(d); 40 C.F.R. § 1068.101(b)(6).
- (o) All persons are prohibited from failing to make reports or provide information required under the CAA and its regulations. CAA §§ 203(a), 208, 213(d), 42 U.S.C. §§ 7522(a), 7542, 7547(d); 40 C.F.R. §§ 1051.250(b), 1068.101(a)(2).
- (p) Anyone who, between March 15, 2004, and January 12, 2009, 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 COC or was improperly labeled—or anyone who caused any of the foregoing—is subject to a civil penalty of up to \$32,500 for each such vehicle.

CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. §§ 19.4, 1068.101(a)(1), (b)(6), (c). This penalty amount increased from \$32,500 to \$37,500 for violations which occur after January 12, 2009. 40 C.F.R. § 19.4.

- (q) Anyone who, between March 15, 2004, and 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 CAA are subject to a civil penalty up to \$32,500 for each day they are in violation. CAA §§ 203(a)(2)(A), 205(a), 208(a), 42 U.S.C. §§ 7522(a)(2)(A), 7524(a), 7542(a); 40 C.F.R. §§ 19.4, 1068.101(a)(2). This penalty amount increased from \$32,500 to \$37,500 for violations since January 12, 2009. 40 C.F.R. § 19.4.

#### 16. Small SI nonroad engines:

- (a) Model year 1997 and later new nonroad SI engines with gross power output at or below 19 kW, certain new engines with a gross power above 19 kW, and new engines below 50 cc used in motorcycles must satisfy air pollutant emission standards in 40 C.F.R. §§ 90.103 and 90.104. 40 C.F.R. §§ 90.1(a)–(c), 90.2; *see* 40 C.F.R. § 90.3 (defining *nonroad engine*). These emission standards impose limits on emissions of oxides of nitrogen, carbon monoxide, hydrocarbon, and exhaust opacity.
- (b) To demonstrate that a small SI nonroad engine satisfies emission standards, the engine must be covered by an EPA-issued COC. 40 C.F.R. § 90.106(a); *see* 40 C.F.R. §§ 90.106, 90.107 (outlining COCs and the application requirements).

- (c) An application for a COC must include an identification and description of the engines covered by the application. 40 C.F.R. § 90.107(d)(1). Each COC states that it covers only the models it names.
- (d) An application for a COC must describe all adjustable operating parameters. 40 C.F.R. § 90.107(d)(6).
- (e) Each COC states that it covers “only those new small nonroad engines which conform in all material respects to the design specifications that applied to those engines described in the documentation required by 40 C.F.R. Part 90.”
- (f) An engine manufacturer must affix at the time of manufacture a permanent and legible label that contains specified information, including the power output. 40 C.F.R. § 90.114.
- (g) Manufacturers are prohibited from selling, offering for sale, introducing or delivering for introduction into commerce, or importing (or causing the foregoing acts with respect to) a model year 1997 or later nonroad small SI nonroad engine unless it is covered by a COC. CAA §§ 203(a)(1), 213(d), 42 U.S.C. §§ 7522(a)(1), 7547(d); 40 C.F.R. § 90.1003(a)(1); *see* CAA § 216(1), 42 U.S.C. § 7550(1) (defining *manufacturer* to include importers); 40 C.F.R. § 90.3 (defining *engine manufacturer* to include importers).
- (h) Anyone who, between March 15, 2004, and January 12, 2009, sold, offered for sale, introduced into commerce, delivered for introduction into commerce, or imported into the United States a small SI nonroad engine that was not covered by a COC—or anyone who caused any of the foregoing—is subject to a civil penalty of up to \$32,500 for each such engine. CAA § 205(a),

42 U.S.C. § 7524(a); 40 C.F.R. §§ 19.4, 90.1006. This penalty amount increased from \$32,500 to \$37,500 for violations which occur after January 12, 2009. 40 C.F.R. § 19.4.

17. In any case in which a manufacturer knowingly submits false or inaccurate information, or knowingly renders inaccurate or invalid any test data, or commits any fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a COC for highway motorcycles, the Administrator may deem such certificate void ab initio. 40 C.F.R. § 86.442-78(c).
18. The EPA may void a COC for recreational vehicles upon finding that the COC holder submitted false or incomplete information in its application or if the COC holder fails to make or maintain required records. 40 C.F.R. § 1051.255(d), (e).
19. Voiding a COC renders all vehicles imported or sold under that COC, whether before or after the voiding, to be uncertified. 40 C.F.R. § 1068.30.

### **Stipulated Facts**

20. The Subject Vehicles and Engines identified in Appendix A to this Consent Agreement are highway motorcycles, recreational vehicles, and small SI nonroad engines, as defined above, and are subject to the emission standards and compliance provisions of the CAA and its regulations. CAA §§ 203, 213(d), 42 U.S.C. §§ 7522, 7547(d).
21. Respondent is a "person" as defined above.
22. Respondent is a "manufacturer" as defined above.

23. Respondent imported all of the Subject Vehicles and Engines, and holds the COCs for some of them. See Appendix A for specifics by engine family.
24. On or about May 14, 2009, authorized inspectors from the EPA and the United States Department of Homeland Security's Bureau of Customs and Border Protection ("CBP") inspected representative highway motorcycles from entry CDA-10097895<sup>1</sup> at the Dallas/Fort Worth Service Port.
25. On or about November 3, 2009, authorized inspectors from the EPA and CBP inspected representative engines from entry 988-01474929 at the Dallas/Fort Worth Service Port.
26. In a letter dated October 14, 2010, the EPA issued to Respondent a Request for Information under section 208(a) of the CAA, 42 U.S.C. § 7524(a) (§ 208 Request). This § 208 Request required Respondent to provide, among other things, information related to the manufacturing, testing, importation and warranty pertaining to all vehicles for which Respondent sought or was issued a COC for all vehicles from model years 2007 and later produced under a COC issued to Respondent and imported into the United States.
27. In November 2010, Respondent provided the EPA with some of the information required by the § 208 Request.
28. On or about August 25, 2011, authorized inspectors from the EPA and CBP inspected a representative highway motorcycle from entry ES2-01708774 at the Los Angeles/Long Beach Seaport.

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<sup>1</sup> This importation was previously referenced by CBP as entry CDA-10096830. CBP then changed the entry number for that importation to CDA-10097895.



29. On or about September 19, 2011, authorized inspectors from the EPA inspected vehicles at Respondent's facility in Mira Loma, CA.
30. On October 25, 2013, pursuant to 40 C.F.R. §§ 86.442-78 and 1051.255(e), the EPA's Office of Transportation and Air Quality ("OTAQ") voided the COCs for highway motorcycles belonging to engine families 6LFNC0.20NFG, 6LFNC0.25NFG, 6LFNC0.05NFG, 6LFNC0.12NFG, 7LFNC0.05NFG, 7LFNC0.12NFG, 7LFNC0.15NFG, 7LFNC0.20NFG, 7LFNC0.25NFG, 8LFNC0.05NFG, 8LFNC0.12NFG, 8LFNC0.15NFG, 8LFNC0.20NFG, 8LFNC0.25NFG, 9LFNC0.05NFG, 9LFNC0.12NFG, 9LFNC0.15NFG, 9LFNC0.20NFG, 9LFNC0.25NFG, ALFNC0.05NFG, ALFNC0.12NFG, ALFNC0.15NFG, ALFNC0.20NFG, ALFNC0.25NFG, BLFNC0.20NFG, and BLFNC0.25NFG, and for recreational vehicles belonging to engine families 7LFNX0.05JNK, 7LFNX0.07NFG, 7LFNX0.12NFG, 7LFNX0.25NFG, 8LFNX0.05JNK, 8LFNX0.05NFG, 8LFNX0.07NFG, 8LFNX0.12NFG, 8LFNX0.25NFG, 9LFNX0.05JNK, 9LFNX0.05NFG, 9LFNX0.07NFG, 9LFNX0.12NFG, 9LFNX0.25NFG, ALFNX0.05JNK, ALFNX0.05NFG, ALFNX0.07NFG, ALFNX0.12NFG, and ALFNX0.25NFG.

### **Alleged Violations of Law**

31. Respondent claimed that every one of the Subject Vehicles and Engines identified in Appendix A was covered by the COC specified for that Subject Vehicle or Engine in Appendix A.

32. Highway Motorcycle Certification Violations: The EPA alleges that Respondent sold, offered for sale, introduced or delivered for introduction into commerce, or imported (or caused the foregoing acts with respect to) 5,400 uncertified highway motorcycles (the “Subject Highway Motorcycles”), identified in Appendix A, in violation of section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1). Specifically, this includes:

- (a) One highway motorcycle from engine family 6LFNC0.20NFG. The EPA alleges that the motorcycle was manufactured after the expiration date of the applicable COC.
- (b) 800 highway motorcycles that the EPA alleges have model names that are not identified on the COCs that purportedly cover them (24 of those motorcycles are from engine family 7LFNC0.05NFG, 600 motorcycles are from engine family 7LFNC0.12NFG, 48 motorcycles are from engine family 7LFNC0.25NFG, and 128 motorcycles are from engine family 9LFNC0.25NFG).
- (c) 52 highway motorcycles from engine family 7LFNC0.05NFG. The EPA alleges that these motorcycles have a manufacturer identified in the Vehicle Identification Number (VIN) that is different from the manufacturer listed in the applicable COC.
- (d) 2,833 highway motorcycles that the EPA alleges were imported prior to the effective date of the applicable COCs (898 of those motorcycles are from engine family 8LFNC0.05NFG, 136 motorcycles are from engine family 8LFNC0.12NFG, 799 motorcycles are from engine family 8LFNC0.20NFG, and 1,000 motorcycles are from engine family 9LFNC0.05NFG).

- (e) 72 highway motorcycles from engine family BLFNC.04926A. The EPA alleges that these motorcycles have carburetors with adjustable jet needles that do not conform to the design specifications submitted in the application for certification.
- (f) 408 highway motorcycles from engine family 9LFNC0.12NFG. The EPA alleges that these motorcycles were imported prior to the effective date of the applicable COC. The EPA alleges that 204 of these motorcycles also have carburetors with adjustable idle air-fuel mixture screws that do not conform to the design specifications submitted in the application for certification.
- (g) 742 highway motorcycles from engine family 9LFNC0.20NFG. The EPA alleges that these motorcycles have carburetors with adjustable idle air-fuel mixture screws that do not conform to the design specifications submitted in the application for certification and have crankcases that emit directly into the ambient atmosphere. The EPA also alleges that 514 of these motorcycles were imported prior to the effective date of the applicable COC.
- (h) 492 highway motorcycles that the EPA alleges have carburetors with adjustable idle air-fuel mixture screws that do not conform to the design specifications submitted in the application for certification, have crankcases that emit directly into the ambient atmosphere, and were incorrectly certified as nonroad vehicles (123 of those motorcycles are from engine family 9LFNX0.05NFG and 369 motorcycles are from engine family 9LFNX0.07NFG). The EPA also alleges that 123 of these motorcycles, from

engine family 9LFNX0.07NFG, were imported prior to the effective date of the applicable COC.

33. Recreational Vehicle Certification Violations: The EPA alleges that Respondent sold, offered for sale, introduced or delivered for introduction into commerce, or imported (or caused the foregoing acts with respect to) 1,005 uncertified recreational vehicles (the “Subject Recreational Vehicles”), identified in Appendix A, in violation of sections 203(a)(1) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(1) and 7547(d), and of 40 C.F.R. § 1068.101(a)(1). Specifically, this includes:

- (a) 214 recreational vehicles that the EPA alleges have model names that are not identified on the COCs that purportedly cover them (172 of those recreational vehicles are from engine family 7LFNX0.07NFG and 42 recreational vehicles are from engine family 7LFNX0.25NFG).
- (b) 459 recreational vehicles that the EPA alleges were imported prior to the effective date of the applicable COCs (123 of those recreational vehicles are from engine family 8LFNX0.05NFG, 123 recreational vehicles are from engine family 8LFNX0.07NFG, and 213 recreational vehicles are from engine family 9LFNX0.05JNK).
- (c) 252 recreational vehicles from engine family 8LFNX0.12NFG that the EPA alleges have carburetors with adjustable idle air-fuel mixture screws that do not conform to the design specifications submitted in the application for certification.
- (d) 80 recreational vehicles that the EPA alleges were imported under engine family 7LFNX0.05NFG, which does not exist.

34. Small SI Nonroad Engine Certification Violations: The EPA alleges that Respondent sold, offered for sale, introduced or delivered for introduction into commerce, or imported (or caused the foregoing acts with respect to) 371 uncertified small SI nonroad engines (the “Subject Engines”), identified in Appendix A, in violation of sections 203(a)(1) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(1) and 7547(d), and of 40 C.F.R. § 90.1003(a)(1). Specifically, this includes:

- (a) 15 small SI nonroad engines that the EPA alleges were imported without reference to any applicable COC and are not covered by any applicable COC.
- (b) 356 small SI nonroad engines that the EPA alleges have carburetors with adjustable idle air-fuel mixture screws that do not conform to the specifications described in the application for certification and have an advertised power that is greater than the power listed on the applicable COCs (204 of those small SI nonroad engines are from engine family 9CLGS.42090F and 152 small SI nonroad engines are from engine family 9CLGS.19668F).

35. Highway Motorcycle Labeling Violations: The EPA alleges that Respondent sold or leased (or caused the foregoing acts with respect to) 204 highway motorcycles with nonconforming labels (the “Mislabelled Highway Motorcycles”), identified in Appendix A. The EPA alleges that 204 highway motorcycles from engine family 9LFNC0.12NFG have emission control information labels that could be peeled off and removed without being defaced or destroyed. The EPA alleges that the importation and sale, or causing the importation and sale, of these improperly labeled

highway motorcycles constitutes violations of section 203(a)(4) of the CAA, 42 U.S.C. § 7522(a)(4).

36. Recreational Vehicle Warranty Violations: The EPA alleges that Respondent sold, offered for sale, introduced or delivered for introduction into commerce, or imported (or caused the foregoing acts with respect to) 252 recreational vehicles without proper emission related warranty information in the owner's manual, identified in Appendix A. The EPA alleges that 252 recreational vehicles from engine family 8LFN0.12NFG have no emission related warranty information in their owner's manuals. The EPA alleges that the importation and sale, or causing the importation and sale, of these recreational vehicles without proper warranty information constitutes violations of sections 203(a)(4) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(4) and 213(d), and of 40 C.F.R. § 1068.101(b)(6).

37. Recordkeeping Violations: The EPA alleges that Respondent failed to adequately keep, maintain, and make available to the EPA enumerated records in violation of section 203(a)(2) of the CAA, 42 U.S.C. § 7522(a)(2), and of 40 C.F.R. § 1068.101. Specifically, this information includes:

(a) Emission test or test vehicle records for the following 15 engine families:

7LFNC0.12NFG, 8LFNC0.12NFG, 8LFNX0.05NFG, 9LFNX0.05NFG, ALFNX0.05NFG, 7LFNC0.15NFG, 8LFNC0.15NFG, 9LFNC0.15NFG, ALFNC0.15NFG, 7LFNX0.10NFG, 8LFNX0.10NFG, 8LFNX0.40NFG, 9LFNX0.40NFG, ALFNX0.40NFG, and ALFNC0.40NFG.

(b) Owner's manuals for 44 model year 2007 and later engine families.

38. Voided COCs Certification Violations: The EPA alleges that Respondent sold, offered for sale, introduced or delivered for introduction into commerce, or imported (or caused the foregoing acts with respect to) approximately 18,488 uncertified highway motorcycles and approximately 8,831 uncertified recreational vehicles in violation of sections 203(a)(1) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a)(1) and 7547(d), and of 40 C.F.R. § 1068.101(a)(1). These vehicles were uncertified because the COC that purportedly covered them was subsequently voided by the EPA. Note that these vehicles, identified in the following table, include most of the Subject Vehicles identified in Appendix A:

<b>Highway Motorcycles</b>		<b>Recreational Vehicles</b>	
<b>Engine Family</b>	<b>Approximate Quantity of Vehicles</b>	<b>Engine Family</b>	<b>Approximate Quantity of Vehicles</b>
6LFNC0.05NFG	800	7LFNX0.05JNK	72
6LFNC0.12NFG	1500	7LFNX0.07NFG	560
6LFNC0.20NFG	1	7LFNX0.12NFG	63
6LFNC0.25NFG	800	7LFNX0.25NFG	108
7LFNC0.05NFG	1393	8LFNX0.05JNK	1000
7LFNC0.12NFG	876	8LFNX0.05NFG	123
7LFNC0.15NFG	200	8LFNX0.07NFG	123
7LFNC0.20NFG	1362	8LFNX0.12NFG	252
7LFNC0.25NFG	346	8LFNX0.25NFG	600
8LFNC0.05NFG	898	9LFNX0.05JNK	213
8LFNC0.12NFG	136	9LFNX0.05NFG	117
8LFNC0.15NFG	200	9LFNX0.07NFG	350
8LFNC0.20NFG	799	9LFNX0.12NFG	750
8LFNC0.25NFG	128	9LFNX0.25NFG	600
9LFNC0.05NFG	1196	ALFNX0.05JNK	1000
9LFNC0.12NFG	544	ALFNX0.05NFG	600
9LFNC0.15NFG	200	ALFNX0.07NFG	600
9LFNC0.20NFG	610	ALFNX0.12NFG	1100
9LFNC0.25NFG	379	ALFNX0.25NFG	600
ALFNC0.05NFG	870		
ALFNC0.12NFG	1400		
ALFNC0.15NFG	200		
ALFNC0.20NFG	1600		
ALFNC0.25NFG	350		
BLFNC0.20NFG	700		
BLFNC0.25NFG	1000		

## Terms of Agreement

39. For the purpose of this proceeding, Respondent:
- (a) admits that the EPA has jurisdiction over this matter as stated above;
  - (b) admits to the stipulated facts stated above;
  - (c) neither admits nor denies the alleged violations of law stated above;
  - (d) consents to the assessment of a civil penalty as stated below;
  - (e) consents to the issuance of any specified compliance or corrective action order;
  - (f) consents to any conditions specified in this Consent Agreement, and to any stated Permit Action;
  - (g) waives any right to contest the alleged violations of law; and
  - (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.
40. Respondent must pay to the United States a civil penalty of \$630,000 (the Civil Penalty).
41. Respondent agrees to pay the Civil Penalty to the United States pursuant to the following schedule: \$230,000 within 30 calendar days following the issuance of the attached Final Order (i.e., the effective date of this Consent Agreement and attached Final Order); (2) \$201,667 within 150 calendar days following the issuance of the attached Final Order; and (3) \$200,833 within 300 calendar days following the issuance of the attached Final Order. This schedule includes 1.00 percent interest on that portion of the Civil Penalty not paid within 30 calendar days following the



issuance of the attached Final Order in accordance with 31 U.S.C. § 3717(a)(1), 40 C.F.R. § 13.11(a), and 78 Fed. Reg. 65,430.

42. Respondent agrees to pay the Civil Penalty in the manner specified below:

(a) Pay the EPA Penalty using any method, or combination of methods, provided on the following website:

[http://www.epa.gov/cfo/finservices/payment\\_instructions.htm](http://www.epa.gov/cfo/finservices/payment_instructions.htm);

(b) Identify each and every payment with “Docket No. CAA-HQ-2014-8034”;  
and

(c) Within 24 hours of payment, email proof of payment to Evan M. Belser at [belser.evan@epa.gov](mailto:belser.evan@epa.gov) (“proof of payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with “Docket No. CAA-HQ-2014-8034”).

43. Beside the Civil Penalty, Respondent acknowledges that CBP may assess separate penalties related to the importation of the Subject Vehicles and Engines.

44. Failure to pay the full amount of the penalty assessed under this Consent Agreement may subject Respondent to a civil action to collect any unpaid portion of the proposed civil penalty and interest. In order to avoid the assessment of interest, administrative costs, and late payment penalty in connection with such civil penalty, as described in the following Paragraph of this Consent Agreement, Respondent must timely pay the penalty.

45. The EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:

- (a) Interest: Any unpaid portion of a civil penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will be assessed at the rate of the United States Treasury tax and loan account rate in accordance with 40 C.F.R. § 13.11(a).
- (b) Late Payment Penalty: On any portion of a civil penalty more than 90 calendar days delinquent, Respondent must pay a late payment penalty of 6% per annum, which will accrue from the date the penalty became delinquent. This late payment penalty is in addition to charges which accrue or may accrue under Subparagraph (a).

46. Under 28 U.S.C. § 162(f), penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes.

47. As a condition of settlement, Respondent agrees to the following:

- (a) Respondent must post a bond in accordance with Appendix B of this Consent Agreement; and
- (b) Respondent shall be liable for stipulated penalties to the United States if and when it fails to post a bond in accordance with Appendix B of this Consent Agreement in the amount of \$5,000 per day. Respondent must pay any such stipulated penalties not more than 90 days after receipt of written demand by the EPA for such penalties and in the manner described in Paragraph 42. The

determinations of whether Respondent has posted a bond in accordance with Appendix B of this Consent Agreement shall be in the sole discretion of the EPA.

48. Respondent agrees that the time period from the effective date of this Agreement until December 31, 2018 (the “Tolling Period”) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims (the “Tolled Claims”) set forth in Alleged Violations of Law section of this Consent Agreement. Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.

#### **Effect of Consent Agreement and Attached Final Order**

49. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and Final Order resolves only Respondent’s liability for federal civil penalties for the violations and facts specifically alleged above.

50. Complainant covenants not to sue Respondent for injunctive or other equitable relief for the violations and facts alleged in this matter, but such covenant terminates if and when Respondent fails to timely and satisfactorily complete every condition stated in Paragraph 47 (including payment of any stipulated penalties owed). If and when such covenant terminates, the United States at its election may seek to compel performance of the conditions stated in Paragraph 47 in a civil judicial action under the CAA or as

- a matter of contract. The covenant not to sue becomes permanent upon satisfactory performance of the conditions stated in Paragraph 47.
51. This Consent Agreement and attached Final Order apply to and are binding upon the Complainant and the Respondent. Successors and assigns of Respondent are also bound if they are owned, in whole or in part, directly or indirectly, or otherwise controlled by Respondent. Nothing in the previous sentence adversely affects any right of the EPA under applicable law to assert successor or assignee liability against Respondent's successor or assignee.
52. This Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.
53. Complainant and the Respondent each certify that its undersigned representative is fully authorized by the party whom he or she represents to enter into the terms and conditions of the Consent Agreement, to execute it on behalf of that party, and to legally bind that party on whose behalf he or she signs this Consent Agreement. Both parties agree that each party's obligations under this Consent Agreement and Final Order constitute sufficient consideration for the other party's obligations under this Consent Agreement and Final Order.
54. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and attached Final Order will be available to the public and agree that it does not contain any confidential business information.
55. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with all applicable provisions of the CAA or other federal, state, or local laws or

statutes, nor shall it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

56. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response, and statement.

Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

57. The EPA reserves the right to revoke this Consent Agreement and accompanying settlement penalty if and to the extent the EPA finds, after signing this Consent Agreement, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to the EPA, and the EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. The EPA shall give Respondent on behalf of Respondent oral notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

58. By signing this Consent Agreement, Complainant and Respondent agree to bear their own costs and attorney's fees in the action resolved by this Consent Agreement and attached Final Order.

59. If Respondent fails to comply with any provision contained in this Consent Agreement and Final Order, Respondent waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in the appropriate

United States District Court to compel compliance with the Consent Agreement and attached Final Order or to seek an additional penalty for such noncompliance.

60. The Parties agree to submit this Consent Agreement to the Environmental Appeals Board with a request that it be incorporated into a Final Order.

61. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. This Consent Agreement and attached Final Order shall become effective after execution of the Final Order by the Environmental Appeals Board and filing with the Hearing Clerk.

## APPENDIX A

### Subject Vehicles and Engines

<u>Alleged Engine Family</u>	<u>Vehicle Type</u>	<u>Manufacturer</u>	<u>COC-Holder</u>	<u>Number of Vehicles</u>	<u>Violation</u>
<b>Subject Highway Motorcycles</b>				<b>5,400</b>	
6LFNC0.20NFG	Highway Motorcycle	Chongqing Lifan	American Lifan	1	B
7LFNC0.05NFG	Highway Motorcycle	Chongqing Lifan	American Lifan	76	C (24), D (52)
7LFNC0.12NFG	Highway Motorcycle	Chongqing Lifan	American Lifan	600	C
7LFNC0.25NFG	Highway Motorcycle	Chongqing Lifan	American Lifan	48	C
8LFNC0.05NFG	Highway Motorcycle	China Lifan	American Lifan	898	A
8LFNX0.07NFG	Highway Motorcycle	China Lifan	American Lifan	369	A (123), E (369), F (369), G (369)
8LFNC0.12NFG	Highway Motorcycle	China Lifan	American Lifan	136	A
8LFNC0.20NFG	Highway Motorcycle	China Lifan	American Lifan	799	A
9LFNC0.05NFG	Highway Motorcycle	China Lifan	American Lifan	1,000	A
9LFNX0.05NFG	Highway Motorcycle	China Lifan	American Lifan	123	E, F, G
9LFNC0.12NFC	Highway Motorcycle	China Lifan	American Lifan	408	A (408), F (204)
9LFNC0.20NFG	Highway Motorcycle	China Lifan	American Lifan	742	E (742), A (514)
9LFNC0.25NFG	Highway Motorcycle	China Lifan	American Lifan	128	C
BLFNC.04926A	Highway Motorcycle	Lifan	American Lifan	72	F
<b>Subject Recreational Vehicles</b>				<b>1,005</b>	
7LFNX0.05NFG	Recreational Vehicle	Chongqing Lifan	American Lifan	80	H
7LFNX0.07NFG	Recreational Vehicle	Chongqing Lifan	American Lifan	172	C
7LFNX0.25NFG	Recreational Vehicle	Chongqing Lifan	American Lifan	42	C
8LFNX0.05NFG	Recreational Vehicle	China Lifan	American Lifan	123	A
8LFNX0.07NFG	Recreational Vehicle	China Lifan	American Lifan	123	A
8LFNX0.12NFG	Recreational Vehicle	China Lifan	American Lifan	252	F
9LFNX0.05JNK	Recreational Vehicle	China Lifan	American Lifan	213	A

<b>Subject Engines</b>				<b>371</b>	
9CLGS.19668F	Small SI Engine	Lifan	Lifan	152	F, I
9CLGS.42090F	Small SI Engine	Lifan	Lifan	204	F, I
Unknown	Small SI Engine	Unknown	N/A	15	H
<b>Mislabeled Highway Motorcycles</b>				<b>204</b>	
9LFNC0.12NFG	Highway Motorcycle	China Lifan	American Lifan	204	J
<b>Nonwarranted Recreational Vehicles</b>				<b>252</b>	
8LFNX0.12NFG	Recreational Vehicle	China Lifan	American Lifan	252	K

**Table Key: Description of Violations**

- Violation A: Uncertified because the vehicles were imported prior to the effective date of the COC.
- Violation B: Uncertified because the vehicles were manufactured after the expiration date of the COC.
- Violation C: Uncertified because the model names of the imported vehicles are not listed in the COC application.
- Violation D: Uncertified because the manufacturer of the imported engine or vehicle does not match the manufacturer in the COC application.
- Violation E: Uncertified because the crankcase emits directly into the ambient atmosphere.
- Violation F: Uncertified because the carburetors contain “adjustable parameters” not identified on their respective COC applications.
- Violation G: Uncertified because the vehicles are not covered by a highway motorcycle COC.
- Violation H: Uncertified because the vehicles or engines are not covered by any applicable COC.
- Violation I: Uncertified because the engine advertised power is greater than the power listed on the applicable COC.
- Violation J: Vehicles contain noncompliant emission control information labels.
- Violation K: Emission related warranty not listed in owner’s manual as required under 40 C.F.R. § 1051.120(e).
- American Lifan: Refers to American Lifan Industry, Inc.
- China Lifan: Refers to China Lifan Industry (Group) Co., Ltd.
- Chongqing Lifan: Refers to Chongqing Lifan Industry (Group) Co., Ltd.
- Lifan: Refers to American Lifan Industry (Group) Co., Ltd.



## APPENDIX B

### Bond Requirement

1. Lifan must post a Bond to satisfy any Clean Air Act Penalty owed by any person to the EPA based on the Introduction into Commerce of any model year 2014, 2015, or 2016, recreational vehicle or motor vehicle manufactured by Lifan.
2. The third-party surety for the Bond must remain responsible for its obligations under the Bond at least until and including December 31, 2018.
3. Lifan must obtain the Bond from a third-party surety that is cited in the United States Department of Treasury Circular 570, “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies” (<http://www.fms.treas.gov/c570/c570.html#certified>).
4. The value of the Bond must be at least \$300,000 for model year 2014, \$500,000 for model year 2015, and \$500,000 for model year 2016. If and when Lifan forfeits any amount of the Bond, Lifan must replenish the Bond to at least \$500,000 within 90 days. These amounts are in addition to any other bond posted for any other reason, including any bonds posted under 40 C.F.R. § 1054.690.
5. An up-to-date copy of the Bond must be included in each and every application for an EPA certificate of conformity for recreational vehicles or motor vehicles manufactured by Lifan.
6. The Bond must identify a person as Lifan’s “Point of Contact.” This person must speak English, reside in the United States of America, and be able to be reached at least until and including December 31, 2018 at the street address, telephone number, and email address identified in the Bond.
7. The Bond must include the following provisions verbatim (with language in brackets replaced as necessary with the term used elsewhere in the Bond for that which is identified by the bracketed language):
  - a. “[Lifan] posts this Bond in order to satisfy the terms of the Consent Agreement and Final Order In the Matter of American Lifan Industry, Inc. and Lifan Industry (Group) Co., Ltd., Docket No. CAA-HQ-2014-8034.”
  - b. “[Surety] agrees to pay a claim within 30 calendar days of receiving the following from [the EPA]: written notice of the claim; a written statement that at least 30 calendar days have passed since [the EPA] notified [Lifan’s] point of contact for [this Bond], of the claim; a statement that no person has paid the claim, including [Lifan]; and any one of the following, each of which is sufficient evidence to establish [Surety’s] liability under [this Bond] if it requires payment of a penalty for the sale, offering for sale, introducing into United States commerce, delivering for introducing introduction into United States commerce, or importing into the United States (or causing any of the foregoing with respect to) any model year

2014, 2015, or 2016 recreational vehicle or motor vehicle manufactured by [Lifan]: [1] a signed administrative settlement agreement, [2] an administrative final order, or [3] a judicial judgment, order, or decree.”

8. Definitions: all words in this Appendix have their ordinary meaning, unless they are defined in the Clean Air Act, 42 U.S.C. §§ 7401–7671q, regulations promulgated thereunder, other applicable federal law, or below:
- a. *Affiliate* is used to indicate a relationship to a specified person, and means any person who, directly or indirectly or through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or control by the specified person.
  - b. *Bond* means the surety bond required by Paragraph 1 of this Appendix and detailed throughout this Appendix.
  - c. *Clean Air Act Penalty* means a monetary amount owed to the United States of America, including the Environmental Protection Agency, for violations (alleged or otherwise) of the Clean Air Act, 42 U.S.C. §§ 7401–7671q, or the regulations promulgated thereunder. Clean Air Act Penalties may be required by an administrative settlement agreement or final order, or by a judicial judgment, order, or decree.
  - d. *EPA* means the United States Environmental Protection Agency.
  - e. *Introduction into Commerce* includes the sale, offering for sale, introducing into United States commerce, delivering for introducing introduction into United States commerce, importing into the United States, or causing any of the foregoing.
  - f. *Lifan* means American Lifan Industry, Inc., Chongqing Lifan Industry (Group) Co., Ltd., China Lifan Industry (Group) Co., Ltd., Lifan Industry (Group) Co., Ltd., any company whose names includes “Lifan” that does business in Shapingba District of Chongqing Province of the People’s Republic of China, any company that applies for or holds an EPA certificate of conformity for products manufactured by any of the foregoing companies, and all affiliates, successors, and assigns of the foregoing.
  - g. *Manufacture* means to assemble or prepare something for Introduction into Commerce.

The foregoing Consent Agreement In the Matter of American Lifan Industry, Inc., Docket No. CAA-HQ-2014-8034, is Hereby Stipulated, Agreed, and Approved for Entry.

**For American Lifan Industry, Inc.:**



Fangshun Guo  
American Lifan Industry, Inc.  
10990 Petal St. Suite 300  
Dallas, TX 75238

28/12/13  
Date

**For Complainant:**

[Redacted]

Phillip A. Brooks, Director  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460-0001

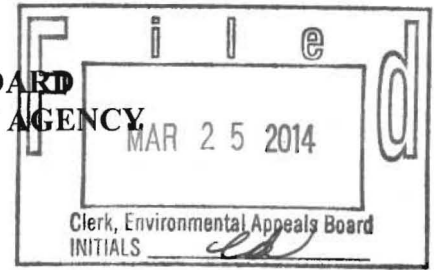
2/21/2014  
Date

[Redacted]

Evan M. Belser, Attorney Adviser  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460-0001

January 6, 2014  
Date

BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



\_\_\_\_\_)  
In re: )  
) Docket No. CAA-HQ-2014-8034  
American Lifan Industry, Inc. )  
)  
\_\_\_\_\_)

**FINAL ORDER**

Pursuant to 40 C.F.R. § 22.18(b)-(c) of EPA’s Consolidated Rules of Practice, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.<sup>1</sup>

Date: *March 25, 2014*

ENVIRONMENTAL APPEALS BOARD



Kathie A. Stein  
Environmental Appeals Board

<sup>1</sup> The three-member panel ratifying this matter is composed of Environmental Appeals Judges Randolph L. Hill, Catherine R. McCabe, and Kathie A. Stein.

CERTIFICATE OF SERVICE

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of American Lifan Industry, Inc., Docket No. CAA-HQ-2014-8034 , were filed and copies of the same were mailed to the parties as indicated below:


**Via Interoffice Mail:**

Evan M. Belser  
Air Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW (Mail Code 2248A)  
Washington, DC 20460

**Via U.S.P.S. Certified Mail:**

Tony Sun  
American Lifan Industry, Inc.  
10888 San Sevain Way, Suite B  
Mira Loma, CA 91752

Dated:           MAR 25 2014          

  
Annette Duncan, Secretary  
U.S. Environmental Protection Agency  
Environmental Appeals Board