



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
2565 PLYMOUTH ROAD
ANN ARBOR, MICHIGAN 48105-2498

OCT 25 2013

UPS – DELIVERY CONFIRMATION REQUESTED

OFFICE OF
AIR AND RADIATION

Hua Xie, President
American Lifan Industry Inc.
10990 Petal Street, Suite 500
Dallas, TX 75238

Tony Sun, Managing Director
American Lifan Industry Inc.
10888 San Sevaine Way (SUITE B)
Mira Loma, CA 91752

Dear Mr. Xie:

This letter is to inform American Lifan that the U.S. Environmental Protection Agency (“EPA”) is voiding the certificates of conformity issued to American Lifan Industry Inc. (hereinafter referred to as “American Lifan”) for the engine families listed in Attachment A to this letter. These certificates include the highway motorcycle certificates issued to American Lifan in 2005, 2006, 2008, 2009 and 2011, and the utility vehicle, all-terrain vehicle, and off-road motorcycle certificates that were issued to American Lifan in 2006, 2008 and 2009.

These certificates were issued based upon information and statements American Lifan made in its applications for certification, as required by 40 CFR Parts 86 and 1051, as applicable. In American Lifan’s certificate applications, it asserted full compliance with the applicable statutory and regulatory requirements. Specifically, American Lifan stated in all of its applications for certificates that the test vehicle was tested in accordance with the applicable EPA test procedures, meets the requirements of such tests, and conforms to the requirements of the regulations. In addition, American Lifan stated in all of its applications for certificates that all required data and records were on file and were available for inspection by the Administrator.

EPA’s decision to issue the certificates of conformity was based on our review of the information and statements in American Lifan’s certificate applications, and most importantly, our presumption that the information and statements in the applications were true and complete. After completing our review of the applications, we concluded that the engine families met all requirements of 40 CFR Parts 86 or 1051, as applicable, and the Clean Air Act (CAA). Consequently, we issued the certificates of conformity.

After issuing these certificates of conformity, EPA received information concerning the certification practices used by American Lifan’s certification consultant, System Launch Associates (SLA), including information suggesting that no testing had actually been done on American Lifan’s vehicles. Based on our investigation, which included repeated requests for

information from American Lifan, assertions from the test lab that it had not done any testing for American Lifan, and American Lifan's consistent lack of ability to produce any documents to verify that any testing actually occurred, it appeared to EPA that the testing referenced throughout American Lifan's certificate applications never occurred. Because the testing information included with American Lifan's applications appeared fabricated, it necessarily appeared that American Lifan knowingly and/or intentionally submitted false, incomplete, or inaccurate information in your applications for certification. Furthermore, because the accuracy and authenticity of testing information and supporting data was integral to our determination that American Lifan's vehicles met emission standards and otherwise conformed to applicable statutory and regulatory requirements, which resulted in our decision to issue American Lifan certificates of conformity, it appeared to EPA that American Lifan's certificates of conformity were issued based on the knowing and/or intentional submission of false, incomplete, or inaccurate information in its applications for certification. Additionally, it appeared that American Lifan failed to maintain appropriate records, as required by the applicable regulations, contrary to the assertions in American Lifan's certificate applications.

On April 3, 2013, EPA sent American Lifan a letter to inform American Lifan of these concerns pertaining to its certificates of conformity. At that time, we gave American Lifan advanced notice of those concerns – which were set forth in greater detail throughout that letter and its attachments – and provided American Lifan with an opportunity to demonstrate or achieve compliance with all of the applicable requirements governing these certificates of conformity. We specifically requested that American Lifan provide us with evidence that would support the statements of compliance made in its original certification applications.

In response, EPA received a 14-page letter from American Lifan's Chief Executive Officer (CEO) Fangshun Guo on or about May 7, 2013¹ (“American Lifan Response Letter”). While Mr. Guo, in defense of American Lifan, may assert that “American Lifan is the victim of the whole case,”² the response letter does not demonstrate that the statements in American Lifan's certification applications were accurate or that American Lifan's vehicles comply with the applicable regulations. The American Lifan Response Letter does not address or contradict EPA's underlying concerns regarding the apparently fabricated testing information or the lack of records. The American Lifan Response Letter does not provide any evidence that the statements made in American Lifan's certificate applications were accurate by providing any further explanation or information regarding the testing of your vehicles. As we explained in our April 3, 2013 letter, it appears that none of American Lifan's vehicles were ever tested. The American Lifan Response Letter does not refute this finding. This demonstrates that American Lifan knowingly and/or intentionally submitted false, incomplete, or inaccurate information in its applications for certification, which is our basis for voiding these certificates under 40 CFR §§ 86.442-78(c) and 1051.255(e).

Additionally, American Lifan did not provide any emission testing records or supporting documentation to support the assertion in its certificate applications regarding American Lifan's compliance with recordkeeping requirements. Instead, American Lifan states that it was unable to provide any records beyond what SLA may have maintained on its behalf. As we explained in

¹ The letter itself did not include a date. This date estimates the date on which EPA actually received the letter.

² American Lifan Response Letter, pg. 1.

to provide any records beyond what SLA may have maintained on its behalf. As we explained in our April 3, 2013 letter, we found no evidence that SLA maintained any of the required records for American Lifan. American Lifan's assurance in its certificate applications that these records would be maintained not only informed our decision to issue the certificates of conformity, which contributes to EPA's belief that American Lifan knowingly and/or intentionally submitted false, incomplete, or inaccurate information in its applications for certification, but is also a separate regulatory requirement. Failure to maintain these records is further basis for voiding certificates under 40 CFR § 1051.255(d).

For the reasons set forth above and as described in greater detail in Attachment B to this letter, EPA concludes that American Lifan knowingly and/or intentionally submitted false, incomplete, or inaccurate information in its applications for certification, and that American Lifan failed to maintain the records as required by our regulations.

Therefore, EPA is voiding American Lifan's certificates of conformity for the engine families listed in Attachment A, effective immediately. By voiding American Lifan's certificates of conformity, the certificates are deemed void from the beginning of the applicable model year. 40 CFR § 1068.30. Accordingly, all vehicles introduced into U.S. commerce under those certificates are considered noncompliant with the applicable statutes and regulations.

Sections 203 and 213(d) of the Clean Air Act prohibit the sale of vehicles and engines unless such vehicles and engines are covered by a valid certificate of conformity. *See also* 40 CFR §§ 86.407-78, 1068.101(a)(1). Each introduction of a vehicle or engine into U.S. commerce under these certificates is a separate violation of sections 203 and 213 of the Clean Air Act, and American Lifan may face civil penalties up to \$37,500 per vehicle or engine, as well as criminal penalties. CAA §§ 203(a)(1), 205(a), and 213(d); 40 USC §§ 7522, 7524, and 7547; 40 CFR §§ 86.407-78 and 1068.101(a)(1).

American Lifan may request a hearing on EPA's decision to void American Lifan's certificates in accordance with the procedures set forth in 40 CFR §§ 86.442, 86.443, 86.444, 86.1853-01, 1051.820 and 1068.601. A request for a hearing must be in writing, signed by the certificate holder or authorized representative of the certificate holder, and include a statement, with supporting data, specifying objections to the action taken by EPA. The request must be received by EPA within 30 calendar days of your receipt of this letter and should be addressed to:

Mr. Cleophas Jackson, Director
Gasoline Engine Compliance Center
U.S. EPA, Office of Transportation and Air Quality
2000 Traverwood Drive
Ann Arbor, Michigan 48105

Please contact Mr. Cleophas Jackson of my staff at (734) 214-4824 or jackson.cleophas@epa.gov, should you have any questions.

Sincerely,



Byron Bunker, Director
Compliance Division
Office of Transportation and Air Quality

ENCLOSURES

cc: Mr. Michael Johnson
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Paul Jacobs, Chief
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ATTACHMENT A

Affected Certificates

As stated in our letter, the U.S. Environmental Protection Agency (“EPA”) is voiding the certificates of conformity issued to American Lifan for the following engine families:

Certificate Number LFN-MC-2006-03. On September 28, 2005, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 6LFNC0.20NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 7LFNC0.20NFG-004. On November 22, 2006, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 7LFNC0.20NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 8LFNC0.20NFG-003. On September 12, 2008, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 8LFNC0.20NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 9LFNC0.20NFG-003. On January 7, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 9LFNC0.20NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number ALFNC0.20NFG-004. On September 18, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family ALFNC0.20NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number BLFNC0.20NFG-004. On March 10, 2011, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family BLFNC0.20NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number LFN-MC-2006-05. On December 8, 2005, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 6LFNC0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 7LFNC0.25NFG-005. On November 22, 2006, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 7LFNC0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 8LFNC0.25NFG-004. On September 12, 2008, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 8LFNC0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 9LFNC0.25NFG-004. On January 7, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 9LFNC0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number ALFNC0.25NFG-002. On August 11, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family ALFNC0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number BLFNC0.25NFG-003. On March 10, 2011, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family BLFNC0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 7LFNX0.05JNK-003. On July 26, 2006, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 7LFNX0.05JNK. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 8LFNX0.05JNK-002. On October 8, 2008, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 8LFNX0.05JNK. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 9LFNX0.05JNK-001. On December 23, 2008, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 9LFNX0.05JNK. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number ALFNX0.05JNK-004. On September 30, 2009, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family ALFNX0.05JNK. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 7LFNX0.12NFG-001. On July 14, 2006, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 7LFNX0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 8LFNX0.12NFG-003. On October 8, 2008, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 8LFNX0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 9LFNX0.12NFG-002. On January 7, 2009, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 9LFNX0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number ALFNX0.12NFG-001. On August 11, 2009, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family ALFNX0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 7LFNX0.25NFG-002. On July 26, 2006, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 7LFNX0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 8LFNX0.25NFG-004. On October 8, 2008, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 8LFNX0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 9LFNX0.25NFG-003. On January 7, 2009, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family 9LFNX0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number ALFNX0.25NFG-002. On August 11, 2009, EPA issued American Lifan a certificate of conformity for the all terrain vehicle engine family ALFNX0.25NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 8LFNX0.05NFG-002. On October 29, 2008, EPA issued American Lifan a certificate of conformity for the off-road motorcycle engine family 8LFNX0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 9LFNX0.05NFG-001. On December 23, 2008, EPA issued American Lifan a certificate of conformity for the off-road motorcycle engine family 9LFNX0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number ALFNX0.05NFG-001. On August 11, 2009, EPA issued American Lifan a certificate of conformity for the off-road motorcycle engine family ALFNX0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 7LFNC0.15NFG-003. On November 22, 2006, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 7LFNC0.15NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 8LFNC0.15NFG-005. On October 29, 2008, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 8LFNC0.15NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 9LFNC0.15NFG-002. On January 7, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 9LFNC0.15NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number ALFNC0.15NFG-001. On August 11, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family ALFNC0.15NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number LFN-MC-2006-01. On September 22, 2005, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 6LFNC0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 7LFNC0.05NFG-001. On November 22, 2006, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 7LFNC0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 8LFNC0.05NFG-001. On September 12, 2008, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 8LFNC0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 9LFNC0.05NFG-005. On January 7, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 9LFNC0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number ALFNC0.05NFG-003. On August 12, 2009, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family ALFNC0.05NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number LFN-MC-2006-04. On September 28, 2005, EPA issued American Lifan a certificate of conformity for the highway motorcycle engine family 6LFNC0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 7LFNC0.12NFG-002. On November 22, 2006, EPA issued American Lifan a certificate of conformity for the Highway Motorcycle engine family 7LFNC0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 8LFNC0.12NFG-002. On September 12, 2008, EPA issued American Lifan a certificate of conformity for the Highway Motorcycle engine family 8LFNC0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 9LFNC0.12NFG-001. On January 7, 2009, EPA issued American Lifan a certificate of conformity for the Highway Motorcycle engine family 9LFNC0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number ALFNC0.12NFG-005. On September 30, 2009, EPA issued American Lifan a certificate of conformity for the Highway Motorcycle engine family ALFNC0.12NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR part 86.

Certificate Number 7LFNX0.07NFG-001. On July 14, 2006, EPA issued American Lifan a certificate of conformity for the Off-Road Motorcycle engine family 7LFNX0.07NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 8LFNX0.07NFG-001. On October 21, 2008, EPA issued American Lifan a certificate of conformity for the Off-Road Motorcycle engine family 8LFNX0.07NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number 9LFNX0.07NFG-002. On December 23, 2008, EPA issued American Lifan a certificate of conformity for the Off-Road Motorcycle engine family 9LFNX0.07NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

Certificate Number ALFNX0.07NFG-002. On August 11, 2009, EPA issued American Lifan a certificate of conformity for the Off-Road Motorcycle engine family ALFNX0.07NFG. This certificate was issued pursuant to section 206 of the Clean Air Act and 40 CFR parts 1051, 1065, and 1068.

ATTACHMENT B

I. Summary of EPA's Concerns

As a result of EPA's investigation into American Lifan's recordkeeping practices, as well as the practices of your certification consultant, System Launch Associates ("SLA")³, EPA believes that the specific facts and actions, as described below, warrant the voiding of the certificates of conformity that EPA issued to American Lifan. First, EPA believes that the information that was submitted to EPA in American Lifan's applications was false or incomplete. EPA's reliance on the veracity of that information led to EPA's decision to issue certificates to American Lifan. As described in more detail below, our investigation has revealed that the information we received from SLA, on American Lifan's behalf, was not truthful, and should not have been relied upon. Second, our investigation has also revealed that American Lifan has not maintained the appropriate records, as required by our regulations.

II. Statutory and Regulatory Background

Section 203 of the Clean Air Act ("CAA" or "the Act") prohibits a manufacturer from selling, offering for sale, introducing, or delivering for introduction into commerce, or any person from importing, a new motor vehicle or new motor vehicle engine "unless such vehicle or engine is covered by a certificate of conformity issued (and in effect) under" the prescribed regulations. 42 U.S.C. § 7522(a)(1); 40 CFR §§ 86.407-78, 1051.201. To obtain such a certificate of conformity, an application must be submitted to EPA. Title 40, Parts 86 and 1051, of the U.S. Code of Federal Regulations (CFR), contain the applicable requirements for on-highway motorcycles and for recreational vehicles (such as all-terrain vehicles (ATVs) and off-highway motorcycles), respectively. For example, Part 86, subparts E and F, prescribe the requirements for on-highway motorcycles, including what specific information must be included in an application for a certificate of conformity (40 CFR § 86.416-80), what emissions testing must be performed for demonstrating compliance with applicable emission standards (40 CFR § 86.501-78 *et seq.*), and what records must be kept and made available to EPA (40 CFR § 86.440-78). Likewise, Part 1051 prescribes the requirements for ATVs and off-highway motorcycles, including what specific information must be included in the application (40 CFR § 1051.205), what emissions testing must be performed for demonstrating compliance with the applicable emissions standards (40 CFR § 1051.235), and what records must be kept and made available to EPA (40 CFR § 1051.250).

³ According to EPA's records, as submitted by American Lifan, American Lifan hired SLA to act as its consultant. SLA was specifically authorized by American Lifan to serve as its authorized representative on all matters related to the EPA application and certification process. For example, in several of American Lifan's certification applications, it included the following statement:

System Launch Associates LLC has compiled the following Application utilizing the best data and specifications made available to it and in no way shall be held responsible for any errors, omissions or inaccuracies in this Application.

Therefore, all acts committed by SLA on American Lifan's behalf are imputed to American Lifan as the certificate holder. See 40 CFR §§ 86.416-80(a)(2) and 1051.201(e).

Under 40 CFR § 86.440-78, an on-highway motorcycle manufacturer must establish, maintain, and retain certain adequately organized and indexed records, including a complete record of all emission tests performed, including test results, the date and purpose of each test, and the distance accumulated on the vehicle, “for a period of six (6) years after the issuance of all certificates of conformity to which they relate.”⁴ Section 86.442-78 specifies what actions EPA may take regarding your certificates of conformity for on-highway motorcycles. Under 40 CFR § 86.442-78(a)(1), the “Administrator may... suspend or revoke any... certificate which has been issued... with respect to any such vehicle(s) if... [t]he manufacturer submits false or incomplete information in his application for certification thereof.” Section 86.442-78(c) provides the following option:

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 certificate of conformity, the Administrator may deem such certificate void ab initio.

A voided certificate is one that is considered never to have been granted and all engines or vehicles introduced into commerce under that certificate are considered noncompliant. *See e.g.*, 40 CFR § 1068.30. No additional engines or vehicles may be introduced into commerce using a voided certificate, and the holder of the voided certificate is liable for all engines or vehicles introduced into U.S. commerce under the voided certificate and may face civil and criminal penalties. 42 U.S.C. §§ 7413, 7522, and 7524; *see also, e.g.*, 40 CFR §§ 86.407-78, 1068.30, 1068.101, and 1068.125.

For off-highway motorcycles and ATVs, under 40 CFR § 1051.250(b), a recreational vehicle manufacturer must establish, maintain, and retain certain adequately organized and indexed records, including a detailed history of each emission-data vehicle, and all emission tests, for at least eight years following the issuance of the associated certificate of conformity.⁵ Section 1051.201(b) states that “the application must... not include false or incomplete statements or information.” Section 1051.255 describes what decisions EPA may make regarding your certificates of conformity for recreational vehicles. Under 40 CFR § 1051.255(d), “we may void your certificate if you do not keep the records we require or [you] do not give us information as required under this part or the Act.” Furthermore, under 40 CFR § 1051.255(e), “we may void your certificate if we find that you intentionally submitted false or incomplete information.” A

⁴ Routine emission test records must be maintained for a period of one year after issuance of all certificates of conformity to which they relate. All other emission tests and records must be maintained and retained by the manufacturer for six years from the issuance of the applicable certificate of conformity to which they relate. *See* 40 CFR § 86.440-78(a)(3).

⁵ As specified in 40 C.F.R. § 1051.250(c), data from routine emission tests (such as test cell temperatures and relative humidity readings) must be kept for one year after issuance of the associated certificate of conformity. All other emission tests and other specified records must be kept for eight years from the issuance of the applicable certificate of conformity.

voided certificate is one that is considered never to have been granted, and all engines introduced into commerce under a voided certificate are considered noncompliant. 40 CFR § 1068.30. No additional vehicles may be introduced into commerce using a voided certificate, and the holder of the voided certificate is liable for all engines/equipment introduced into U.S. commerce under the voided certificate and may face civil and criminal penalties. 40 CFR §§ 1068.30, 1068.101, and 1068.125.

III. Facts Which Warrant Voiding the Certificates

As a result of EPA's investigation into American Lifan's certification and recordkeeping practices, including practices by American Lifan's consultant, SLA, EPA believes that the specific facts and actions, as described below, show that American Lifan's certificates of conformity were issued based on the knowing and/or intentional submission of false, incomplete, or inaccurate information. EPA also believes that American Lifan failed to maintain appropriate records. As explained above, both of these reasons warrant EPA voiding these certificates.

A. Summary of EPA's Investigation

EPA Information Request to SLA

On September 12, 2008, EPA's Office of Enforcement and Compliance Assurance (OECA) issued an information request to SLA under section 208 of the CAA. 42 U.S.C. § 7542. The information request was initiated after EPA received a tip that SLA was violating CAA requirements. In the information request, EPA asked SLA to provide information, including a variety of emissions test records and data for each certification application that SLA had prepared and/or submitted to EPA, including those certification applications submitted on behalf of American Lifan. In his April 12, 2009 response, SLA's president and sole member, Michael Johnson, asserted that he had no records other than paper or electronic copies of certification applications in the exact same form as he had submitted them to EPA, adding that EPA should contact his client-manufacturers (including American Lifan) directly to obtain the requested records. In that same response, Mr. Johnson then asserted that SLA only "assembles" applications, and that "[e]very single piece of information incorporated into an Application is provided solely by the Applicant" and that if the applicant provides information that is false, erroneous, or incomplete, it is the responsibility of the applicant.

EPA Onsite Inspection of Records at SLA

On May 26, 2009, EPA directed its contractor, the Bionetics Corporation, to conduct an onsite inspection of SLA's office. During the course of the inspection, Bionetics discovered that SLA's office was also Mr. Johnson's apartment residence and that Mr. Johnson only had in his possession a single box of records which contained certification applications. Mr. Johnson stated at that time that he was in the process of relocating to Michigan as explanation of why he only had one box of records. Mr. Johnson did not provide any electronic records or electronic copies

of certification applications. He also stated that the best source for the requested records would be with the vehicle manufacturer or certifying party (here, American Lifan).

EPA Information Request to American Lifan

On October 14, 2010, EPA sent American Lifan a letter requesting information under section 208 of the CAA, to determine American Lifan's compliance with sections 203 and 213 of the CAA, and applicable motor vehicle and non-road engine regulations. American Lifan provided an incomplete response to EPA's information request on November 13, 2010, stating that it could not provide certain records or information because the lab had closed. American Lifan also admitted it had no details or records regarding test procedures used. According to American Lifan's response, Texas Environmental Technologies, Inc. ("TET") conducted all of the emission tests for which American Lifan provided information. American Lifan did not submit emission test or test vehicle records for at least nine engine families listed in Attachment A as required under 40 CFR §§ 86.440-78 and 1051.250(b)(2) and (3). In addition, American Lifan was not able to provide any service and maintenance logs for any test vehicles. American Lifan did not provide any of the underlying emissions test records for any of the emissions tests purportedly conducted at TET, as EPA requested. To date, American Lifan has not provided copies of the complete emissions test reports despite EPA's repeated requests for the data.

It therefore appears that American Lifan's recordkeeping practices have failed to comply with 40 CFR §§ 86.440-78 and 1051.250. When EPA requested documentation to show compliance with these recordkeeping requirements, American Lifan was either unwilling or unable to produce the requested information. As explained above, 40 CFR § 86.440-78 specifies that manufacturers of highway motorcycles must maintain records for at least six years following issuance of the associated certificate (i.e., carryover, carry-across, and original certificates). Similarly, 40 CFR § 1051.250 requires manufacturers to maintain, for at least eight years following issuance of the associated certificate, a detailed history of each emission-data vehicle, here utility vehicles, off-highway motorcycles and ATVs. However, based on the information we have collected (or been unable to collect), it appears that American Lifan has failed to maintain records for any of these vehicle-types, in violation of 40 CFR §§ 86.440-78 and 1051.250.

Information Provided by Texas Environmental Technologies

Because American Lifan's certification applications indicated that TET was the test lab that conducted the supporting emissions tests, on October 26, 2010, EPA sent an information request, pursuant to CAA section 208, to TET requesting emissions tests and calibration records related to any emissions tests conducted at TET. In April and May of 2011, Mr. Rucker provided EPA with some test data in response to this request but none of that test data was for any of American Lifan's vehicles. Furthermore, on November 16, 2011, EPA sent TET an additional follow-up letter seeking additional test data and other information. In this letter, EPA explicitly identified the unique test numbers and specific test dates of emissions tests purportedly conducted at TET

and referenced in several of American Lifan's certification applications, in which TET was identified as the test lab. Mr. Rucker responded to these requests in January and March of 2012, respectively. In his responses, Mr. Rucker again stated that TET did not have any records or information that indicated that TET had ever tested the relevant American Lifan engine families. Mr. Rucker also stated that TET had not conducted any emissions tests for American Lifan. Additionally, in his responses, Mr. Rucker indicated that the unique test identification numbers listed in the American Lifan certification applications were not test numbers used by TET, and that the dates of the emissions tests listed in the certification applications did not match TET records of dates that emissions testing was actually conducted at the TET lab.

Given these statements by TET, in combination with American Lifan's inability to produce relevant records, it appears that the certification applications submitted by American Lifan to EPA in which TET was listed as the testing laboratory are likely false, and that all the test information, including test data and test results cited in the certification applications are likely fabricated in their entirety.

Carryover data used by NCDL and Stanley Marketing & Consulting, LLC (SMC) in Certification Applications

Since 2005, American Lifan has used at least three different consultants, SLA, NCDL, and SMC, to submit certification applications listed in Attachment A to EPA. All of American Lifan's consultants relied heavily on carry-over emission test data (as described in 40 C.F.R. §§ 86.421-78(d) and 1051.235(d)), whereby a certification application is supported by emission test data that was previously used in support of a certification application from a previous model year of a vehicle or engine produced by the same manufacturer.

American Lifan asserts that it changed its certification consultant as a result of EPA inquiries regarding SLA and TET. American Lifan asserts that its hiring of another certification consultant for the 2011 model year suggests a show of compliance. However, all of the American Lifan certificates listed in Attachment A, whether obtained through applications by SLA or other consultants such as NCDL or SMC, were issued based on emission test data purportedly from TET. Although the carry-over of emission test data from a previous model year in the application for a subsequent model year is permitted in the motorcycle and recreational vehicle regulations (40 C.F.R. §§ 86.421-78(d), 1051.235(d)), American Lifan and its consultants were carrying-over fabricated test data originally submitted by SLA. Despite the change in certification consultants, American Lifan offers no information regarding the continued use of that fabricated test data nor does its argument regarding its change in certification consultants address the issue of its continued use of fabricated test data.

EPA's April 3, 2013 Letter to American Lifan and American Lifan's Response Letter

On April 3, 2013, EPA sent a letter to American Lifan providing an opportunity to demonstrate or achieve compliance. In response, EPA received a letter from Mr. Fangshun Guo, CEO for

American Lifan, on or about May 7, 2013. None of Mr. Guo's statements demonstrate any level of compliance with regulatory requirements.

American Lifan's Response Letter includes three arguments in support of its overarching assertion that "American Lifan is the victim of the whole case" and is therefore not responsible for these CAA violations. First, American Lifan asserts that SLA is the entity responsible for intentionally and/or knowingly submitting false, incomplete or inaccurate information to obtain certificates of conformity. According to American Lifan, "we knew little of the whole procedure applying for EPA certificates[,] [s]o we appointed [SLA] as our agent to do the job for us." American Lifan further states that "SLA is our only contact party during the application procedure." American Lifan then disclaims all responsibility for the CAA violations described in EPA's April 3, 2013 letter by stating: "If EPA [had] concerns about the authenticity of the test result, it was SLA's sole action and American Lifan was not involved in any of it." It appears that Mr. Guo is asserting that although SLA may have submitted false, incomplete or inaccurate information to EPA, American Lifan did not knowingly and/or intentionally submit false, incomplete or inaccurate information to EPA. EPA, however, did not issue certificates to SLA; EPA issued certificates to American Lifan and American Lifan was the entity on whose behalf the information in the certificates was provided. As stated in our April 3, 2013 letter, every application for a certificate of conformity "must certify that all the vehicles and/or engines in the engine family comply with the requirements of this part, other referenced parts of the CFR, and the Clean Air Act." 40 CFR 1051.205(s). American Lifan, as the certificate holder, was the entity that bore responsibility for EPA regulatory requirements, and it was American Lifan that benefitted by being able to introduce its vehicles into commerce as a result of EPA certification. That American Lifan's consultant may have not fulfilled its business arrangement with American Lifan does not in any way address EPA's concerns that American Lifan appears to have not complied with the regulatory requirements assigned to it as the certificate holder. The information Mr. Guo presents regarding the business relationship between American Lifan and SLA does not absolve American Lifan of its responsibility regarding the issues we have with the false, incomplete or inaccurate information that was submitted to EPA. In no instance does Mr. Guo rebut our concerns regarding that information. Furthermore, Mr. Guo does nothing to rebut the evidence that American Lifan has not complied with certification, testing or recordkeeping requirements. American Lifan relied on SLA (and its other consultants NCDL and SMC) to obtain certificates of conformity on its behalf, further relied on those certificates to introduce its vehicles into U.S. commerce, and continues to this day to rely on those certification applications as its demonstration of compliance. That American Lifan may have made an unfortunate choice of consultant and not properly overseen the consultant's actions in ensuring that its legal responsibilities were fulfilled is not an excuse for failing to meet its responsibilities. In no instance does Mr. Guo demonstrate that American Lifan actually complied with EPA regulations.

Second, American Lifan offers the following rationale for its recordkeeping violations: “Due to internal problems of our company, there were a lot of documents lost.” American Lifan asserts that “we did try our utmost to get all the documents” but those efforts “ended without success.” American Lifan insists that “we have learned our lessons and made settlement with [the] Air Enforcement Division regarding the recordkeeping violations.” This rationale does nothing to rebut our findings that American Lifan failed to keep records. Moreover, the settlement agreement between EPA and American Lifan for these recordkeeping violations and other violations was never finalized.

Third, American Lifan asserts its hiring of a new agent, SMC, and SMC’s obtaining of certificates of conformity on behalf of American Lifan, is evidence that American Lifan is not responsible for the CAA violations described in EPA’s April 3, 2013 letter. American Lifan asserts that it “is always seeking the right way to conduct business in the States.” As evidence of this, American Lifan explains that it hired SMC as its new agent “to apply for EPA certificates,” which, like SLA, “is also the only contact party during the application procedure.” American Lifan then asserts its innocence of any wrongdoing with this concluding sentence: “So even the way we applied [for] the certificates was the same, it resulted differently, which means we cannot control what [our] agent’s [are] doing but we always do our job right.” The appointment of a new consultant who obtains certificates of conformity for subsequent model years⁶ is not relevant to the validity of the certificates of conformity in Attachment A. American Lifan and its consultants continued to base its certification applications on test data first submitted by SLA. That use of this test data in the initial and subsequent certificate applications, for multiple model years, is the evidence that is relevant to the voiding of the certificates. American Lifan’s assertion that it hired a new consultant to submit the same fabricated test data does not demonstrate compliance with EPA’s regulatory requirements. American Lifan’s continued use of this carryover test data, regardless of the identity of American Lifan’s consultant, remains subject to this action. This explanation does not rebut our findings that American Lifan’s previous consultant, SLA, and its subsequent consultants, intentionally and/or knowingly submitted false, incomplete or inaccurate information on American Lifan’s behalf to obtain the certificates of conformity for American Lifan listed in Attachment A. As explained above, the actions of American Lifan’s consultants in producing and submitting the fabricated test data impute directly to American Lifan since American Lifan bears responsibility for complying with EPA’s regulatory requirements. The assertion regarding its new consultant does nothing to establish American Lifan’s compliance with EPA regulatory requirements or the validity of the certificates of conformity obtained on its behalf.

⁶ The test summary referenced is for engine family BLFNC.04926A, not an engine family covered under this void notice.

B. Basis for Voiding Certificates

EPA believes the specific facts and actions described above warrant the voiding of the certificates of conformity listed in Attachment A for two reasons. First, EPA believes that the information we have gathered demonstrates that American Lifan knowingly and/or intentionally submitted false, incomplete, or inaccurate information in its certification applications. Second, EPA believes that American Lifan has failed to maintain required records. As previously stated, both the knowing and/or intentional submittal of false, incomplete or inaccurate information, and the failure to maintain required records, may be a basis for voiding certificates. 40 CFR §§ 86-442-78(c), 1051.255(d) and (e). Second, American Lifan's recordkeeping practices have failed to comply with 40 CFR §§ 86.440-78 and 1051.250.

Intentional and/or Knowing Submission of False, Incomplete, or Inaccurate Information

As described above, the certificates listed in Attachment A indicate that TET conducted the underlying emissions testing. However, Mr. Rucker of TET has stated that TET never conducted any emissions testing for American Lifan. He also indicated that the test numbers and the test dates listed on the American Lifan certificate applications do not match test numbers or formats used by TET, or dates on which any testing actually took place at TET. Thus, the American Lifan certification applications that refer to purported emissions tests conducted at TET appear to contain false data and information. Furthermore, American Lifan and its consultant, SLA, have not been able to produce any records to EPA that would indicate that such testing actually took place. It therefore appears that American Lifan intentionally and/or knowingly submitted false, incomplete, or inaccurate information in its certification applications on which EPA relied in issuing the certificates of conformity listed in Attachment A.

In response to EPA's April 3, 2013 letter providing American Lifan an opportunity to demonstrate or achieve compliance, Mr. Guo does not in any way demonstrate that any testing actually occurred. Instead, he states in the response letter that: "We prepared and sent the test vehicle to SLA, paid all the cost according to SLA's instructions... and then, we were expecting to get certificates in time, and most importantly valid and legally... As for how SLA organized the test and finalized the test report, we had nothing to do with it...If EPA [had] concerns about the authenticity of the test result, it was SLA's sole action and American Lifan was not involved in any of it."⁷ Such an explanation does nothing to address EPA's concerns about the certificate applications it received for American Lifan, and it in no way demonstrates that any testing was ever conducted on any of American Lifan's vehicles. American Lifan's hiring of new consultants also does nothing to address EPA's concern regarding the fabricated test data submitted in its certificate applications. American Lifan's subsequent consultants continued to use carryover test data that was originally submitted by SLA; as explained above, the evidence indicates that the test data provided was not from testing on American Lifan vehicles, so this test data was

⁷ American Lifan Response Letter, pp 1-2.

fabricated test data and continued to be fabricated test data when used in other certificate applications. Thus, regardless of which consultant, on behalf of American Lifan, submitted the certificate application containing the fabricated test data, American Lifan received certificates based on the knowing and/or intentional submission of false, incomplete or inaccurate information.

Failure to Maintain Records

American Lifan's recordkeeping practices have failed to comply with 40 CFR §§ 86.440-78 and 1051.250. When EPA requested documentation to show compliance with these recordkeeping requirements, American Lifan was either unwilling or unable to produce all of the requested information and instead only submitted a partial response. As part of its CAA section 208 information request, EPA requested that American Lifan submit, among other things, a complete report of the emissions test results and detailed supporting information on the emissions tests and test vehicles that were used in their certification applications. American Lifan has still not supplied EPA with this information or made such information available to EPA. Most notably, in response to EPA's April 3, 2013 letter providing American Lifan an opportunity to demonstrate or achieve compliance with the recordkeeping provisions, American Lifan responded by stating that American Lifan does not have any records. American Lifan asserts that it hired SLA to maintain their records. Such an assertion in no way demonstrates compliance with recordkeeping requirements; it is an admission of non-compliance. Failure to maintain required records is a basis for voiding American Lifan's certificates (*see* 40 CFR § 1051.255(d)). Additionally, American Lifan's failure to maintain records – the same records that American Lifan represented it would maintain in its certificate applications – also contributes to EPA's belief that American Lifan knowingly and/or intentionally submitted false, incomplete or inaccurate information to EPA in its certification applications, the submittal of which is also a basis for voiding American Lifan's certificates (*see* 40 CFR §§ 86.442-78(c), 1051.255(e)). Because American Lifan was unable to demonstrate compliance with these recordkeeping requirements, the statements in American Lifan's certification applications confirming compliance with these requirements are also viewed as a knowing submission of a false statement by American Lifan.

IV. American Lifan's Certificates are Void Effective Immediately

As explained above, based on American Lifan's failure to keep records, which is in direct violation of 40 CFR § 1051.250, and American Lifan's intentional and/or knowing submission of false, inaccurate, or incomplete information, EPA is voiding the certificates listed in Attachment A. Each certificate is now void pursuant to 40 CFR §§ 86.442-78(c), 1051.255(d), and 1051.255(e), as applicable. Each introduction of any vehicle into U.S. commerce under these certificates, at any time, is a violation of sections 203 and 213 of the Clean Air Act, and American Lifan may face civil penalties up to \$37,500 per vehicle, as well as criminal penalties.

In addition, American Lifan may not introduce into commerce any additional vehicles covered by the voided certificates. 40 CFR § 1068.30.

American Lifan may request a hearing on EPA's decision to void American Lifan's certificates in accordance with the procedures set forth in 40 CFR §§ 86.442, 86.443, 86.444, 86.1853-01, 1051.820 and 1068.601. A request for a hearing must be in writing, signed by the certificate holder or authorized representative of the certificate holder, and include a statement, with supporting data, specifying objections to the action taken by EPA. The request must be received by EPA within 30 calendar days of your receipt of this letter. It should be sent to Mr. Cleophas Jackson at the following address:

Mr. Cleophas Jackson, Director
Gasoline Engine Compliance Center
Compliance Division
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
2000 Traverwood Drive
Ann Arbor, Michigan 48105

EPA may decide to approve American Lifan's request if we find that it raises a substantial factual issue. If we agree to hold a hearing, we will use the procedures specified in 40 CFR §§ 86.444, 86.1853-01 and 1051.820(c). Please contact Mr. Jackson at (734) 214-4824 or jackson.cleophas@epa.gov, should you have any questions.