



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 27 2018

CERTIFIED MAIL NO. 7015 0640 0001 1121 9660
RETURN RECEIPT REQUESTED

David Shan
Managing Member
KXD Motor, LLC
3101 W. Miller Rd. Garland TX 75041

Re: Docket No. R9-CAA-18-1004

Dear KXD Members:

The enclosed Clean Air Act Mobile Source Expedited Settlement Agreement (Agreement) is being reissued. The original Agreement was issued on June 13, 2018, and has since been withdrawn. The enclosed Agreement outlined below contains the same terms as the June 13, 2018 Agreement.

Authorized representatives of the United States federal government conducted inspections to determine your company's¹ compliance with the Clean Air Act (CAA) and regulations promulgated thereunder. The details of these inspections are outlined in the Agreement. As a result of the inspections, it was determined that your company failed to comply with the CAA and the associated regulations. The Agreement describes the violations.

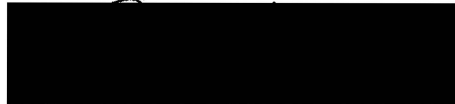
Based upon information we currently have, it appears that your company has not previously

¹ While this letter refers to "your company" and the enclosed settlement agreement refers to KXD Motor, LLC, it is not clear what entity is responsible for the importation of the 536 all-terrain vehicles at issue in this enforcement action. KXD Motor, LLC, was named on the importation documents submitted to U.S. Customs and Border Protection. However, based upon information from the Texas Secretary of State, it appears that KXD Motor, LLC, may have had a status of "forfeited existence" at the time of the importations cited in the Agreement. If no corporate entity is responsible for the importations, the business entity responsible for the importations might be deemed to be a partnership, with the individual members or partners bearing responsibility for the importation. The ESA attached to this letter is intended to be applicable to both KXD Motor, LLC, and any managerial officials or members of KXD Motor, LLC, if KXD Motor, LLC, were deemed to be a partnership as a result of a status of "forfeited existence" under Texas law.

violated the CAA. Because of this, you may resolve violations using an expedited process that includes significantly lower penalties than those sought through the normal settlement process. The United States Environmental Protection Agency (EPA) is authorized to enter into the Agreement under the authority vested in the EPA Administrator by Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1). Should your company violate the CAA in the future, EPA will not offer this expedited process again. After the Agreement becomes effective, EPA will take no further civil action against your company for the violation(s) described in the Agreement. However, EPA does not waive any rights to take an enforcement action for any other past, present, or future violations of the CAA or of any other federal statute or regulation.

If you do not sign and return the enclosed Agreement as presented within **30 calendar days** of its receipt, and meet all of your obligations under the Agreement, the proposed Agreement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the violation(s) identified in the Agreement and seek penalties of up to \$46,192 per violation. Please refer to "CAA Mobile Source Expedited Settlement Agreement Instructions," attached, for instructions on accepting this Agreement.

Sincerely,



Joel Jones, Assistant Director
Enforcement Division
EPA Region 9

Enclosure

Enclosure

CLEAN AIR ACT MOBILE SOURCE EXPEDITED SETTLEMENT AGREEMENT


DOCKET NO. R9-CAA-18-1004

Respondent: KXD Motor, LLC,

3101 W. Miller Rd.
Garland, TX 75041

1. The parties enter into this Clean Air Act Mobile Source Expedited Settlement Agreement (Agreement) in order to settle the civil violations discovered as a result of the inspections specified in Table 1, attached, incorporated into this Agreement by reference. The civil violations that are the subject of this Agreement are described in Table 2, attached, incorporated into the Agreement by reference, regarding the vehicles/engines specified therein.
2. Respondent admits to being subject to the Clean Air Act (CAA) and its associated regulations and that the United State Environmental Protection Agency (EPA) has jurisdiction over the Respondent and the Respondent's conduct described in Table 2. Respondent does not contest the findings detailed therein, and waives any objections Respondent may have to EPA's jurisdiction.
3. Respondent consents to the payment of a penalty in the amount of \$25,600 further described in Table 3, attached, incorporated into this Agreement by reference. Respondent agrees to follow the instructions in "CAA Mobile Source Expedited Settlement Agreement Instructions," attached, incorporated into this Agreement by reference. Respondent certifies that the required remediation, detailed in Table 3, has been carried out.
4. By its first signature below, EPA approves the findings resulting from the inspection and alleged violations set forth in Table 1 and Table 2. Upon signing and returning this Agreement to the EPA, Respondent consents to the terms of this Agreement without further notice. Respondent acknowledges that this Agreement is binding on the parties signing below, and becomes effective on the date of the EPA Enforcement Division Assistant Director's ratifying signature.

APPROVED BY EPA:



Joel Jones, Assistant Director, Enforcement Division

Date: 9/28/18

APPROVED BY RESPONDENT:

Name (print): David Shan

Title (print): _____

Signature: 

Date: 10/15/2018

RATIFIED BY EPA:



Joel Jones, Assistant Director, Enforcement Division

Date: 10/31/18

Table 1 - Inspection Information

Entry/Inspection Date(s):		Docket Number:	
June 6, 2017 and March 1, 2018		R 9 - C A A - 1 8 - 1 0 0 4	
Inspection Location:		Entry/Inspection Number(s)	
Price Transfer and Cal Cartage Warehouses		9 A R - 0 2 7 7 9 1 8 - 9	
Address:			
Price Transfer - 2711 E. Dominguez St.		9 A R - 0 2 7 7 9 1 9 - 7	
Cal Cartage - 22351 S. Wilmington Ave.		B T H - 1 0 0 3 8 1 2 - 7	
City:		Inspector(s) Name(s):	
Price Transfer- Long Beach, Cal Cartage- Carson		Andy Zellinger, Jennifer MacArthur, Nathan Dancher	
State:	Zip Code:	EPA Approving Official:	
CA	90810 and 90745	Joel Jones	
Respondent:		EPA Enforcement Contact:	
KXD Motor, LLC		Andrew Zellinger, 415-972-3093	

Table 2 - Description of Violations and Vehicles/Engines

The 536 all-terrain (ATV) vehicles described below (the Subject Vehicles) were imported by KXD Motor, LLC, and found to be in violation of Sections 203(a)(1) and 213(d) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(1) and 7547(d), and 40 C.F.R. § 1068.101(a)(1) and (b)(5).

Physical and chemical examination of the catalyst from two of the inspected BF-ATV-125E model Subject Vehicles reveals that it is materially different from the catalyst design specified in the application for the certificate of conformity (COC) for engine family HBFLX.124FHT. Specifically, the precious metals ratios and the rhodium loading in the tested samples differ from the certified design. Since both the BF-ATV-125E and BF-ATV-110C are certified under engine family HBFLX.124FHT, the certified catalyst design for the BF-ATV-110C is the same as the BF-ATV-125E, and the laboratory analysis results from the two sampled BF-ATV-125E catalyst can be used to represent the BF-ATV-110C catalyst as well. For this reason, the 300 BF-ATV-125E and 100 BF-ATV110C Subject Vehicles were imported into the U.S. without being covered by a COC. The EPA has found no evidence that the Subject Vehicles are otherwise excluded from coverage.

Physical and chemical examination of the catalyst from the BF-ATV-110A model Subject Vehicle reveals that it is materially different from the catalyst design specified in the application for the certificate of conformity (COC) for engine family JBFLX.124FHT. Specifically, the precious metals ratios and the rhodium loading in the tested samples differ from the certified design. For this reason, the 136 BF-ATV110 model Subject Vehicles were imported into the U.S. without being covered by a COC. The EPA has found no evidence that the Subject Vehicles are otherwise excluded from coverage.

By importing the above referenced Subject Vehicles and introducing them into U.S. commerce, KXD Motor, LLC, committed 536 violations of CAA §§ 203(a)(1), 42 U.S.C. § 7522(a)(1), and the implementing regulations codified at 40 C.F.R. § 86.407-78(a) and 86.437.78(a)(2)(ii).

Subject Vehicles	Engine Family	Manufacturer	Model Year	Quantity
BF-ATV-125E	HBFLX.124FHT	Zhejiang Guoyu Industry and Trading Co. Ltd.	2017	300
BF-ATV110C	HBFLX.124FHT	Zhejiang Guoyu Industry and Trading Co. Ltd.	2017	100
BF-ATV110A	JBFLX.124FHT	Zhejiang Guoyu Industry and Trading Co. Ltd.	2018	136

Table 3 - Penalty and Required Remediation

Penalty	\$25,600
Required Remediation	KXD Motor, LLC, must have exported the above-mentioned 536 uncertified Subject ATVs to a country other than Canada and Mexico, and provide the EPA with a report documenting such exportation.

CAA MOBILE SOURCE EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS

Within 30 days from your receipt of the Agreement, you must pay the penalty using one of the following methods:

Payment method 1 (electronic): Pay online through the Department of the Treasury using WWW.PAY.GOV. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center and complete the SFO Form Number 1:1. The payment shall be identified with case number R9-CAA-18-1004. Also, send a photocopy of the signed agreement and a copy of the payment receipt to the address in payment method 2, below.

Payment method 2 (check): Mail, via certified mail, a certified check payable to the United States of America marked with the case name, KXD Motor LLC, and docket number R9-CAA-18-1004, with a photocopy of the signed agreement to:

U. S. Environmental Protection Agency Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Attn: R9-CAA-2018-1004

Within 30 days from your receipt of the Agreement, you must also send the original, signed Agreement, the report detailing your corrective action(s), and proof of payment (meaning, as applicable, a photocopy of the original certified penalty check or confirmation of electronic payment) via CERTIFIED MAIL to:

Andrew Zellinger (ENF-2-1)
Enforcement Division
U.S. Environmental Protection Agency Region IX
75 Hawthorne Street
San Francisco, CA 94105

If you have any questions or would like to request an extension, you may contact Andrew Zellinger of the Enforcement Division at (415) 972-3093 or have your attorney contact Allan Zabel of the Office of Regional Counsel at (415) 972-3902. EPA will consider whether to grant an extension on a case-by-case basis. EPA will not accept or approve any Agreement returned more than 30 days after the date of your receipt of the Agreement unless an extension has been granted by EPA. If you believe that the alleged violations are without merit (and you can provide evidence contesting the allegations), you must provide such information to EPA as soon as possible but no later than 30 days from your receipt of the Agreement.

Unless an extension has been granted by EPA, if you do not sign and return the Agreement with proof of payment of the penalty amount and a report detailing your corrective action(s) within 30 days of your receipt of the Agreement, the Agreement is automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the above or any other violations. Failure to return the Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correction of the violations that have been specifically identified in the enclosed form. If you decide not to sign and return the Agreement and pay the penalty, EPA may pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to \$46,192 per vehicle/engine in violation.