



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 29 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OFFICE OF
AIR AND RADIATION

Mr. Chen Xiaoyu
Loncin (USA), Incorporated
1201 Jellick Avenue
City of Industry, CA 91748

Dear Mr. Xiaoyu:

This letter is to inform you that the U.S. Environmental Protection Agency (EPA) is voiding three of your certificates of conformity for all-terrain vehicles (ATVs).

On November 15, 2006, EPA issued to you certificates of conformity for the following ATV engine families: 7LGGX.150AA1 (Certificate Number: 7LGGX.150AA1-002-R01), 7LGGX.250AM5 (Certificate Number: 7LGGX.250AM5-003-R01), and 7LGGX.110AM3 (Certificate Number: 7LGGX.110AM3-R01). These certificates were issued based upon information and statements you made in your applications for certification, as required in 40 C.F.R. Part 1051. Specifically, you stated that the ATVs described in the certification application "have been tested in accordance with the provisions of Subpart E, Part 86 Title 40 of the Code of Federal Regulations (C.F.R.), and on the basis of these tests are in conformity with that subpart." You stated that "[a]ll data records required by that subpart are on file and are available for inspection by the administrator." You further stated that: "The tested and compliant vehicles, with respect to which data are submitted, have been completely tested in accordance with the applicable testing procedures set forth by EPA guidelines. They meet or exceed the minimum requirements of such tests, and on the basis of such tests, they conform and exceed the requirements of the regulations in this part (40 C.F.R. § 86, 1051)."

EPA's decision to issue the certificates of conformity was based on our review of the information and statements in your certification applications, and most importantly, our presumption that the information and statements in the application were true and complete. We concluded that the above-referenced engine families met all the requirements of Part 1051 and the Clean Air Act; consequently, we issued the certificates of conformity.

After issuing these certificates of conformity, EPA received information concerning the certification practices used by your certification consultant, MotorScience. EPA investigated MotorScience and discovered several problematic practices, including inconsistencies between the emissions data vehicle (EDV) described in your certification applications and those vehicles actually used to generate testing and other data. The above-identified engine families exhibit the exact same inconsistencies between the application data and the actual data.

On July 22, 2009, EPA notified you of these inconsistencies and provided a 30 day opportunity for you to demonstrate or achieve compliance with all the applicable requirements governing these certificates of conformity. We specifically requested that you provide us with evidence that would support the statements of compliance made in your original certification applications. We received your response letter dated August 28, 2009, but that response does not demonstrate that the statements in your certification applications were accurate or that your ATVs comply with the applicable regulations.

In our July 22, 2009 letter, we explained to you that for each certificate, the test vehicle described in the certification application you submitted to EPA did not match the vehicle that was actually tested on behalf of that engine family. We discovered this discrepancy through information obtained in response to our Clean Air Act section 208 information request, which includes the original emissions test reports we obtained from Automotive Testing and Development Services, Inc. (ATDS) (the primary laboratory used by MotorScience). In comparing the information we obtained against the information contained in your certification applications, we discovered that for each engine family, the description of the test vehicle in your certification applications did not match the actual test vehicle used. This demonstrates that you intentionally submitted false or incomplete information and is a basis for voiding these certificates under 40 C.F.R. 1051.255(e).

Additionally, in our July 22, 2009 letter, we explained to you that our investigation determined that no durability mileage accumulation records and no maintenance records had been kept for any of your certificates. In response, your August 28, 2009 letter merely stated that you "cannot retrieve" information on durability mileage accumulation completed as part of the emissions testing in support of your certification applications, but you offered no explanation regarding why these durability mileage accumulation records are not available. Additionally, your letter contains no explanation regarding why maintenance records are not available. This is information that must be maintained for eight years under 40 C.F.R. § 1051.250(c). Failure to maintain these records is further basis for voiding these certificates under 40 C.F.R. § 1051.255(d).

For the reasons set forth above and as described in greater detail in the attachment to this letter, EPA concludes you intentionally submitted false or incomplete information and that you failed to maintain the records as required by our regulations.

Therefore, EPA is voiding your certificates of conformity for ATV engine families 7LGGX.150AA1, 7LGGX.250AM5, and 7LGGX.110AM3, effective immediately. By voiding your certificates of conformity, the certificates are deemed void from the beginning of the 2007 model year. 40 C.F.R. § 1068.30. Accordingly, all ATVs introduced into U.S. commerce under those engine families are considered noncompliant.

Section 203 and 213(d) of the Clean Air Act prohibits the sale of vehicles and engines unless such vehicles and engines are covered by a valid certificate of conformity. *See also* 40 C.F.R. § 1068.101(a)(1). Each introduction of an ATV into U.S. commerce under these certificates during the 2007 model year and thereafter is a violation of sections 203 and 213 of

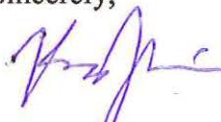
the Clean Air Act, and you may face civil penalties up to \$32,500 per ATV, as well as criminal penalties. CAA §§ 203(a)(1), 205(a) and 213(d), 42 U.S.C. §§ 7522, 7524 and 7547; 40 C.F.R. § 1068.101(a)(1).

You may request a hearing on EPA's decision to void your certificates in accordance with the procedures set forth in 40 C.F.R. §§ 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 days of receipt of this letter and should be sent to:

Linc Wehrly, Light-Duty Vehicle Group Manager
Compliance and Innovative Strategies Division
U.S. EPA Office of Transportation and Air Quality
2000 Traverwood Drive
Ann Arbor, MI 48105

Should you have any questions, please contact Mr. Linc Wehrly of my staff at (734) 214-4286.

Sincerely,



Karl Simon, Director
Compliance and Innovative Strategies Division
Office of Transportation and Air Quality

ENCLOSURE

cc: Bai Ke
Chongqing Longting Power Equipment Co., Ltd.
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ATTACHMENT

On November 15, 2006, EPA issued Longting USA, LLC (now Loncin (USA) Incorporated, hereinafter "Loncin") certificates of conformity for the all-terrain vehicle (ATV) engine families 7LGGX.150AA1 (Certificate Number: 7LGGX.150AA1-002-R01), 7LGGX.250AM5 (Certificate Number: 7LGGX.250AM5-003-R01), and 7LGGX.110AM3 (Certificate Number: 7LGGX.110AM3-R01). After the certificates were issued, EPA received information regarding the veracity and completeness of the certification practices of MotorScience Enterprise, Inc. (hereinafter "MotorScience"),¹ who is Loncin's certification consultant. EPA completed a comprehensive investigation of MotorScience's certification practices and found several problems, including multiple inconsistencies regarding the identities of the emissions data vehicles (EDVs) described in Loncin's certification applications and the EDVs actually used to generate the testing and other data. These inconsistencies indicated that Loncin had intentionally submitted false or incomplete information to EPA as part of the certification process for these engine families. EPA also discovered a complete failure to maintain the requisite records for these engine families. Such behavior violates the regulations governing your certificates of conformity for these vehicles and calls into question the validity of the certificates issued to Loncin. EPA, through its letter dated July 22, 2009, provided Loncin with notice of the facts that we uncovered that demonstrated these violations. We explained that this conduct warranted the voiding of these certificates of conformity. EPA also provided Loncin with an opportunity to demonstrate or achieve compliance with all applicable

¹ Chongqing Longting Power Equipment Co., Ltd. (Chongqing) is the original engine manufacturer located in China. Chongqing hired Longting USA, LLC (now Loncin (USA) Incorporated, hereinafter "Loncin") to be the importer of record and MotorScience Enterprises Inc. (MotorScience) to act as consultant. Both Loncin and MotorScience were specifically authorized by Chongqing to serve as authorized representatives on all matters related to the application and certification process. Loncin further authorized MotorScience to act on its behalf as well. Therefore all acts by MotorScience are imputed to Loncin as the certificate holder. *See* 40 C.F.R. § 1051.201(e).

requirements governing these certificates of conformity before voiding the certificates. While Loncin responded in a letter on August 28, 2009, its explanation did not sufficiently account for the inconsistencies in the data or the lack of records. Thus, EPA is now taking action to void Loncin's certificates; a detailed explanation for that action follows.

Applicable Statutory and Regulatory Requirements

Section 203 of the Clean Air Act ("CAA" or "Act") prohibits a manufacturer from introducing a new motor vehicle or new motor vehicle engine into commerce "unless such vehicle or engine is covered by a certificate of conformity issued (and in effect) under [the] regulations prescribed..." 42 U.S.C. § 7522(a)(1). Section 213(d) of the Act requires that standards for ATVs and other nonroad engines be enforced in the same manner as standards for motor vehicles. 42 U.S.C. § 7547(d); see also 40 C.F.R. § 1068.101(a)(1). To obtain a certificate of conformity, an application must be submitted to EPA. Title 40, Part 1051, of the Code of Federal Regulations ("C.F.R.") contains the applicable requirements for recreational vehicles, such as ATVs and off-highway motorcycles. For example, Part 1051 prescribes the specific information that must be included in the application, 40 C.F.R. § 1051.205, the emissions testing that must be performed to demonstrate compliance with the applicable emission standards, 40 C.F.R. § 1051.235, and the records that must be kept and made available to EPA. 40 C.F.R. § 1051.250.

40 C.F.R. § 1051.201(b) requires that "the application must...not include false or incomplete statements or information." Additionally, 40 C.F.R. § 1051.250 specifies that a detailed history of each emission-data vehicle, including the following, must be organized and maintained by the certificate holder for at least eight years following certification:

- (i) The emission-data vehicle's construction, including its origin and buildup, steps you took to ensure that it represents production vehicles, any components you built specially for it, and all the components you include in your application for certification.
- (ii) How you accumulated vehicle or engine operating hours, including the dates and the number of hours accumulated.
- (iii) All maintenance, including modifications, parts changes, and other service, and the dates and reasons for the maintenance.
- (iv) All your emission tests, including documentation on routine and standard tests, as specified in 40 C.F.R. part 1065, and the date and purpose of each test.
- (v) All tests to diagnose engine or emission-control performance, giving the date and time of each and the reasons for the test.
- (vi) Any other significant events.

40 C.F.R. § 1051.255 specifies what actions EPA may take regarding your certificate of conformity. Under 40 C.F.R. § 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.” Also, under 40 C.F.R. § 1051.255(e), “we may void your certificate if we find that you intentionally submitted false or incomplete information.” A voided certificate is considered never to have been granted and all engines introduced into commerce under the certificate are considered noncompliant. 40 C.F.R. § 1068.30. No 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 C.F.R. §§ 1068.30, 1068.101, 1068.125.

Facts and Actions Which Warrant Voiding Loncin's Certificates

EPA's investigation into MotorScience's certification practices found that the specific facts and actions, described below, show that all three of Loncin's certificates of conformity

(7LGGX.150AA1-002-R01, 7LGGX.250AM5-003-R01, and 7LGGX.110AM3-R01) were issued based on the intentional submission of false or incomplete information and that Loncin failed to comply with the applicable recordkeeping requirements for these engine families. As explained above, these facts and actions warrant the voiding of Loncin's certificates.

Recordkeeping Violations

Herbert Hu of MotorScience signed and submitted certificate of conformity applications for ATV engine families 7LGGX.150AA1, 7LGGX.250AM5, and 7LGGX.110AM3, to EPA as the authorized representative of Loncin. EPA's inspection of MotorScience's facilities revealed that MotorScience failed to maintain any durability mileage accumulation records or maintenance records on behalf of Loncin for these applications, in violation of 40 C.F.R. § 1051.250. In its July 22, 2009 letter, EPA informed Loncin about this lack of records and gave Loncin an opportunity to provide those records to us or explain why those records were not available. In its response dated August 28, 2009, Loncin merely stated that "some of the information cannot be retrieved," but provided no further explanation regarding why these records are not available or why these records may never have been kept. Therefore, Loncin has not demonstrated that it complied with the applicable recordkeeping requirements at 40 C.F.R. § 1051.250, and EPA is voiding the certificates of conformity for these three engine families under 40 CFR § 1051.255(d).

Intentional Submission of False or Incomplete Information

As explained above, 40 C.F.R. § 1051.201(b) requires that your "application must...not include false or incomplete statements or information." Additionally, 40 C.F.R. § 1051.255(e) authorizes the voiding of your certificates if we find that you intentionally submitted false or

incomplete information. EPA identified such information for these engine families through its investigation of MotorScience's certification practices. Specifically, for each engine family, EPA identified important inconsistencies between the EDV described in your certification application and the EDV that was actually used to generate the testing and other data for your engine family. Through its CAA section 208 information request, EPA obtained the original emissions test reports ("original reports") from Automotive Testing and Development Services, Inc. (ATDS), the primary laboratory used by MotorScience, for each EDV used for each engine family. The original reports were generally six to seven pages long and contained ATDS quality assurance stamps with handwritten notes that identified the size and the manufacturer of the EDV used for each engine family, as well as other information regarding the EDV. We compared these original reports with the test reports submitted by Loncin and found that the test reports submitted by Loncin did not match those obtained from ATDS. In other words, the original reports and the test reports you submitted were not identical. For example, the ATDS quality assurance stamps with their accompanying handwritten notes were not present on the test reports you submitted with your certification applications. Additionally, we found that you only submitted two pages of the test reports rather than submitting the whole report. Such discrepancies prompted our investigation of the differences in the data contained in the two reports as well as the differences in other information we obtained through our information request when compared against information you included in your certification applications.

After comparing all of the data, we discovered discrepancies between the information we obtained through our investigation and the information you submitted for certifying these engine families. Those discrepancies demonstrated that the actual EDVs used for testing were different from those described in your certification applications and that the actual EDVs are not

representative of the requisite characteristics of the products in your engine families. For example, after comparing the original reports against the copies of the test reports you submitted for each engine family, it was obvious that you removed the ATDS stamp, the handwritten notes and the pages from the test report that identified the size and the manufacturer of the EDV. We also identified differences between the actual EDV tested and the EDV described in the information submitted for certification. Examples of these discrepancies are detailed below for each engine family:

Engine Family 7LGGX.150AA1. The actual EDV used to generate the test results (ONT04874 and ONT05106) was misrepresented in Loncin's certification application in the following respects:

- The application stated that the EDV's N/V ratio (revolutions per minute divided by vehicle speed) was 68.8, yet the actual EDV's N/V ratio was 101.8.
- The application stated that the exhaust emission control system was an oxidative catalyst (OC), yet the emission control system on the actual EDV was a three-way catalyst with pulse air injection (TWC-PAIR).
- The application stated that the road load was 121 N, yet the actual EDV's road load was 115.1 N.

Additionally, it appears you used carry-over data from engine family 6CQLX0.15ATV in completing this certification application. The emissions-related parts described in your application for engine family 7LGGX.150AA1 failed to describe the air injection valve, air injection nozzle, and ignition module used on the EDV; yet, these parts were described in the original application for engine family 6CQLX0.15ATV using the same EDV.

Engine Family 7LGGX.250AM5. The application stated that the EDV was a Loncin 230 cc ATV, yet the actual EDV was a Loncin 250 cc ATV. Additionally, although the application purports to be a carryover from 6CQLX0.25ATV, the physical description of the catalyst and the active material loading differs between the two applications.

Engine Family 7LGGX.110AM3. The application stated that the EDV was a Loncin 107 cc ATV, yet the actual EDV was a Loncin 110 cc ATV. Additionally, despite the identification of the application as a “carry-over” from engine family 6CQLX0.15ATV, the test data (ONT04877 and ONT05168) and the EDV description submitted with the application for engine family 7LGGX.110AM3 do not match the test data and EDV supporting engine family 6CQLX0.15ATV.

In its July 22, 2009 letter, EPA informed Loncin about these discrepancies, explained that the intentional submission of false or incomplete information is grounds for voiding your certificates, and gave Loncin an opportunity to demonstrate or achieve compliance with applicable regulations. Loncin responded in a letter dated August 28, 2009, but your response did not explain these discrepancies and did not provide any demonstration that your products are in compliance with the applicable regulations. For example, in your response letter you state that pre-May 2007 ATDS reports “did not always include a quality assurance stamp,” so Loncin used both stamped and unstamped reports “because the stamp is not a prerequisite for test reports.” However, as explained above, these particular test reports did in fact contain ATDS stamps, with accompanying handwritten notes, as well as additional pages of the report. Your response does not explain why you chose to remove the ATDS stamps, the handwritten notes and the various pages from the copies of the test reports you submitted, especially since the information you withheld clearly demonstrates that the actual EDV tested did not properly represent the engine

family for which it was being tested. When asked about this missing information, MotorScience admitted to EPA that they intentionally obscured the test reports submitted with Loncin's certification applications to hide the EDV identification information.

Other responses in your August 28, 2009 letter are similarly inadequate in explaining these discrepancies. In response to the different displacement values, you state that such differences are the result of "industry practice," but such a response is not really an explanation for why you did not accurately describe the EDV in your certification application or why you provided no explanation regarding this "industry practice" when you originally submitted these applications. When asked about the erroneous N/V ratio listed in your certification application for engine family 7LGGX.150AA1, your response letter only states that you were "unable to verify how the 101.8 N/V ratio was calculated." This response, however, does not actually provide a rationale for why the 68.8 ratio was included in the application. When asked about the erroneously listed emission control system for the same engine family, you admit that the actual EDV's emission control system is a TWC-PAIR, but your only explanation for why the application states otherwise is that MotorScience "probably submitted...wrong information." When asked about an erroneously listed "road load" for this engine family, your response letter only states "the road load that MotorScience calculated indicates 121N." This does not explain the difference, or why Loncin included a different number in its application. You provided no explanation for the other differences noted above.

Therefore, based on all of the above, we conclude that these discrepancies demonstrate that the information that was not submitted from the original test reports was intentionally withheld, with the intention to mislead. The missing portions of the test reports, as well as other information we obtained during our investigation, makes it clear that you intentionally submitted

false or incomplete information to EPA as part of the certification process for these engine families.

Loncin's Certificates Are Void Effective Immediately

Therefore, based on your failure to keep records, which is in direct violation of 40 C.F.R. § 1051.250, and your intentional submission of false or incomplete information, the certificates of conformity for engine families 7LGGX.150AA1 (Certificate Number: 7LGGX.150AA1-002-R01), 7LGGX.250AM5 (Certificate Number: 7LGGX.250AM5-003-R01), and 7LGGX.110AM3 (Certificate Number: 7LGGX.110AM3-R01) are now void pursuant to 40 C.F.R. § 1051.255(d) and (e). Each introduction of any ATV into U.S. commerce under these certificates during the 2007 model year and thereafter is a violation of sections 203 and 213 of the Clean Air Act, and you may face civil penalties up to \$32,500 per ATV, as well as criminal penalties. *See* CAA §§ 203(a)(1), 205(a), and 213(d), 42 U.S.C. §§ 7522 and 7524; 40 C.F.R. §§ 1068.101(a)(1) and 1068.125. In addition, Loncin may not introduce into commerce any additional vehicles covered by the voided certificates. 40 C.F.R. § 1068.30.

You may request a hearing on EPA's decision to void your certificates in accordance with the procedures set forth in 40 C.F.R. §§ 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 days of receipt of this letter and should be sent to:

Linc Wehrly, Light-Duty Vehicle Group Manager
Compliance and Innovative Strategies Division
U.S. EPA Office of Transportation and Air Quality
2000 Traverwood Drive
Ann Arbor, MI 48105

Such a request must include a description of your objection and any supporting data. 40 C.F.R. §§ 1051.255(f), 1051.820. We may decide to approve your 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 C.F.R. part 1068, subpart G, 40 C.F.R. 86.1853-01, and 40 C.F.R. 1051.820(c).

Please contact Mr. Wehrly by telephone at (734) 214-4286, or email at wehrly.linc@epa.gov, should you have any questions.