



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

JUN 29 2010

OFFICE OF
AIR AND RADIATION

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Cong Wang, CEO
Seaseng, Inc.
1550 S. Milliken Ave, Unit B
Ontario, California 91761

Dear Mr. Wang:

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

On July 26, 2006, and April 25, 2007, the EPA issued Seaseng, Inc. (Seaseng) certificates of conformity for all-terrain vehicle (ATV) engine families 6SSGX.125ACH (Certificate Number: 6SSGX.125ACH-001) and 7SSGX.125AM3 (Certificate Number: 7SSGX.125AM3-001). 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 April 22, 2010, 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 no such evidence or explanation from Seaseng. We received a few telephone voice messages from "Clive" at Seaseng, each one of which we returned and were subsequently advised that "Clive" was not present. Each time we left a voice message indicating the importance of this matter and when and how to reach us. Additionally, we received a letter dated May 17, 2010, on behalf of Seaseng CEO Cong Wang from his attorney Lynn Chao, and two emails dated May 26, 2010, from Bob Bock of MotorScience. These responses do not demonstrate that the statements in your certification applications were accurate or that your ATVs comply with the applicable regulations.

In our April 22, 2010 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 April 22, 2010 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 Ms. Chao's May 17, 2010 letter on behalf of Cong Wang, she merely stated that Mr. Wang "paid Mr. Chi Ying of Zhejiang Chisheng Industry and Training Co., Ltd....for his services to acquire certificates, and therefore, all information...is with him." Ms. Chao further states that Mr. Wang did "not have any records for the past two years." These responses offer no explanation regarding why these durability mileage accumulation records or 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 6SSGX.125ACH and 7SSGX.125AM3, effective immediately. By voiding your certificates of conformity, the certificates are deemed void from the beginning of the applicable model year. 40 C.F.R. § 1068.30. Accordingly, all ATVs introduced into U.S. commerce under those engine families are considered noncompliant.

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 C.F.R. § 1068.101(a)(1). Each introduction of an ATV into U.S. commerce under these certificates during the applicable model year (2006 for 6SSGX.125ACH and 2007 for 7SSGX.125AM3) 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 Air and Radiation

cc: Chi Ying
Zhejiang Chisheng Industry & Trading Co.Ltd.
Hardware Industry Area
Tongqin Wuyi, Zhejiang, China

Herbert Hu
MotorScience Enterprise
719 Nogales Street
City of Industry, CA 91748

Bob Bock
MotorScience Enterprise
719 Nogales Street
City of Industry, CA 91748

Lynn Chao
Law Offices of Lynn Chao, APC
650 Camino de Gloria
Walnut, CA 91789

ATTACHMENT

On July 26, 2006, and April 25, 2007, EPA issued Seaseng, Inc. (Seaseng) certificates of conformity for all-terrain vehicle (ATV) engine families 6SSGX.125ACH and 7SSGX.125AM3. After the certificates were issued, EPA received information regarding the veracity and completeness of the certification practices of MotorScience Enterprise, Inc. (MotorScience),¹ who is Seaseng's certification consultant. EPA completed a comprehensive investigation of MotorScience's certification practices and found several problems, including multiple inconsistencies between the emissions data vehicle (EDV) described in Seaseng's certification applications and the EDVs actually used to generate the testing and other data. These inconsistencies indicated that Seaseng 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 Seaseng. EPA, through its letter dated April 22, 2010, provided Seaseng 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 Seaseng with an opportunity to demonstrate or achieve compliance with all applicable requirements governing these certificates of conformity before voiding the certificates. While Seaseng, as an entity, did not respond, the responses we received through Lynn Chao (attorney for Cong Wang, CEO of Seaseng) and Bob Bock (of

¹ Zhejiang Chisheng Industry & Trading Co.Ltd. (Chisheng) is the original engine manufacturer located in China. Chisheng hired Seaseng, Inc. (Seaseng) to be the importer of record and MotorScience Enterprises Inc. (MotorScience) to act as consultant. Both Seaseng and MotorScience were specifically authorized by Chisheng to serve as authorized representatives on all matters related to the application and certification process. Seaseng further authorized MotorScience to act on its behalf as well. Therefore all actions by MotorScience are imputed to Seaseng as the certificate holder. *See* 40 CFR 1051.201(e).

MotorScience) did not sufficiently account for the inconsistencies in the data or the lack of records. Thus, EPA is now taking action to void Seaseng'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 CFR 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 the Certificates

EPA's investigation into MotorScience's certification practices found that the specific facts and actions, described below, show that Seaseng's certificates of conformity for engine

families 6SSGX.125ACH and 7SSGX.125AM3 were issued based on the submission of false or incomplete information and that Seaseng failed to comply with the applicable recordkeeping requirements for these engine families. As explained above, these facts and actions warrant the voiding of Seaseng's certificates.

Recordkeeping Violations

John Chan and Herbert Hu of MotorScience signed and submitted certificate of conformity applications for ATV engine families 6SSGX.125ACH and 7SSGX.125AM3, to EPA as the authorized representatives of Seaseng. EPA's inspection of MotorScience facilities revealed that MotorScience failed to maintain any durability mileage accumulation records or maintenance records on behalf of Seaseng for these applications, in violation of 40 C.F.R. § 1051.250. In its April 22, 2010 letter, EPA informed Seaseng about this lack of records and gave Seaseng an opportunity to provide those records to us or explain why those records were not available. The only response we received addressing this issue was from Lynn Chao stating that Cong Wang, CEO of Seaseng, "does not have any records for the past two years." No further explanation regarding why these records are not available or why these records may never have been kept has been provided. Therefore, Seaseng 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 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 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 Seaseng and found that the test reports submitted by Seaseng 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 one page from each test report rather than submitting the whole report from each test. 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 in the original reports with the information contained in the test reports you submitted we discovered that – for both engine families discussed herein – the EDVs described in your certification applications were different from the EDVs actually used by ATDS for testing. As you know, the original reports, including the handwritten notes

accompanying the ATDS stamps, and other information in the test reports for the EDV actually tested by ATDS, indicate the size and the manufacturer for the EDV for each engine family. However, since you removed the ATDS stamp, the handwritten notes and the other pages from the copy of the test report that you submitted, we did not discover this problem until we obtained copies of the original reports through our investigation. Had you submitted a complete copy of the original test report, EPA would have had this information when reviewing your certification applications and could have identified this discrepancy before issuing certificates of conformity for these engine families. Instead, your intentional removal of the ATDS stamps, their accompanying handwritten notes, and other pages from the test reports, led EPA to rely on erroneous information in your certification applications for issuing your certificates of conformity. Moreover, separate and apart from the information missing in the test reports submitted to EPA, we discovered other discrepancies between the information we obtained through our investigation and the information you submitted in your certification applications. This information further verified that the actual EDVs used for testing were different than 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. Examples of these types of discrepancies are detailed below for each engine family.

Engine Family 6SSGX.125ACH. The actual EDV used to generate the test results (ONT06697 and ONT06863) was misrepresented in Seaseng's certification application in the following respects:

- The application stated that the EDV was manufactured by Zhejiang Chisheng Industry and Trading Co. Ltd. (Chisheng), yet the actual EDV was manufactured by Zhejiang Leike Machine Industry Co., Ltd.

- The application stated that the EDV had an engine displacement of 124 cc, yet the actual EDV's displacement was 150 cc.
- The application listed the EDV as an ATV, yet the actual EDV was a scooter. Useful life tests for ATVs with an engine displacement greater than 100 cc must be 10,000 km, not 4,000 km, as indicated in the handwritten note on the ATDS quality assurance stamp for test report ONT06863.

Engine Family 7SSGX.125AM3. The actual EDV used to generate the test results (ONT06697 and ONT06863) was misrepresented in Seaseng's certification application in the following respects:

- The application stated that the EDV was manufactured by Zhejiang Chisheng Industry and Trading Co. Ltd. (Chisheng), yet the actual EDV was manufactured by Zhejiang Leike Machine Industry Co., Ltd.
- The application stated that the EDV had an engine displacement of 124 cc, yet the actual EDV's displacement was 150 cc.
- The application listed the EDV as an ATV, yet the actual EDV was a scooter. Useful life tests for ATVs with an engine displacement greater than 100 cc must be 10,000 km, not 4,000 km, as indicated in the handwritten note on the ATDS quality assurance stamp for test report ONT06863.

In its April 22, 2010 letter, EPA informed Seaseng about these discrepancies, explained that the intentional submission of false or incomplete information is grounds for voiding your certificates, and gave Seaseng an opportunity to demonstrate or achieve compliance with applicable regulations. Seaseng itself did not provide a response demonstrating or achieving compliance. However, we did receive responses on behalf of CEO Cong Wang and from

MotorScience. Lynn Chao, attorney for Cong Wang, notified us that Mr. Wang had retained her as counsel and that Mr. Wang had “paid Mr. Chi Ying of Zhejiang Chisheng Industry and Training Co., Ltd. ...for his services to acquire the certificates.” Ms. Chao further stated that [Mr. Wang] has no records for the past two years and that Seaseng, Inc. “intends to close its business.” Ms. Chao’s letter closes with this statement: “[Mr. Wang] waives his rights of contest should you wish to revoke the license.” Bob Bock’s email on behalf of MotorScience states that MotorScience was merely “provided with the test reports” and “not involved in the testing.” However, these responses do not explain the discrepancies and do not provide any demonstration that your products are in compliance with the applicable regulations.

For example, Mr. Bock’s May 26, 2010, email states: “Our records show that MotorScience was not involved in the testing process of the EDV in question and was provided with test reports that clearly indicate the test reports are for an off-road vehicle...not for an on-road scooter.” He further states that “[t]he test reports provided to MotorScience were without any stamp on them.” Mr. Bock subsequently sent us a two-page PDF file; one page of that PDF file purported to be test report ONT06697, while the other page purported to be test report ONT07090. As an initial matter, neither of the PDF file pages submitted are responsive to the issues we raised in our April 22, 2010 letter. More importantly, Mr. Bock’s response does not in any way rebut our finding that the EDVs described in your applications and the actual EDVs are two different vehicles. First, test report ONT07090 is entirely irrelevant as it was not referenced in the applications or actually used for the testing of these engine families. Second, the page from test report ONT06697 is the same page from that test report that was originally submitted with the application for engine family 6SSGX.125ACH. Third, we understand from conversations with ATDS that they always provide a complete copy of test reports to its clients,

and those test reports are generally six to seven pages. Ultimately, neither Ms. Chao's letter nor Mr. Bock's email explain why you chose to obscure 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 during our initial investigation, MotorScience admitted to EPA that they intentionally obscured the test reports submitted with Seaseng's certification applications to hide the EDV identification information.

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.

Seaseng'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, certificates 6SSGX.125ACH-001 and 7SSGX.125AM3-001 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 2006 and 2007 model years 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, Seaseng 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.