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**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CA 94105**

In the Matter of:

Yamagin Tsusho Company Limited
d/b/a Yamagin Corporation

Respondent.

Docket No. CAA-R9-2016- 0002

CONSENT AGREEMENT

And

**FINAL ORDER PURSUANT TO
SECTIONS 22.13 AND 22.18**

CONSENT AGREEMENT

Preliminary Statement

1. This is a civil administrative penalty assessment proceeding instituted under section 205(c)(1) of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. § 7524(c)(1) and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22 ("Consolidated Rules"). The issuance of this Consent Agreement and attached Final Order ("CAFO") simultaneously commences and concludes this proceeding in accordance with 40 C.F.R. §§22.13(b) and 22.18(b).
2. Complainant in this matter is the United States Environmental Protection Agency ("EPA"). On EPA's behalf, Kathleen Johnson, Director, Enforcement Division, U.S. Environmental Protection Agency, Region 9, is authorized by lawful delegation to institute and settle civil administrative penalty assessment proceedings under section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1). EPA Delegation 7-6-A (August 4, 1994); EPA, Region 9 Redesignation R9-7-6-A (February 11, 2013).

3. Respondent in this matter is Yamagin Tsusho Company Limited d/b/a Yamagin Corporation. Respondent is a corporation organized under the laws of Japan with an office at 13951 S. Main Street, Los Angeles, CA 90061. Respondent imports and sells highway vehicles, nonroad vehicles, and other similar items.
4. The Consolidated Rules provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order. 40 C.F.R. §§ 22.13(b), 22.18(b). The Regional Judicial Officer is authorized to issue consent orders memorializing settlements between the Complainant and Respondent resulting from administrative enforcement actions under the CAA, and to issue final orders assessing penalties under the CAA. 40 C.F.R. § 22.4(b); EPA Delegation 7-6-C. (May 11, 1994); EPA Delegation R9 1210.08 (March 25, 2000).
5. The EPA and Respondent, having agreed to settle this action, consent to the entry of this Consent Agreement and the attached Final Order before taking testimony and without adjudication of any issues of law or fact herein, and agree to comply with the terms of this Consent Agreement and the attached Final Order.

Governing Law

6. This proceeding arises under Part A of Title II of the Act, CAA §§ 202-219, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including hydrocarbons, oxides of nitrogen, and carbon monoxide. The Alleged Violations of Law, stated below, regard import of vehicles in violation of Title II of the Act. What follows is a summary of the law that governs these allegations.
7. A manufacturer is prohibited by section 203(a)(1) of the CAA from selling, offering for sale, introducing, or delivering for introduction into commerce, or any person from importing, any new vehicle or engine manufactured after the applicable effective date of the regulations unless such vehicle or engine is covered by a Certificate of Conformity (COC) issued by the EPA. 42 U.S.C. § 7522(a)(1).
8. The definition of a manufacturer, under section 216 of the CAA, includes persons who import vehicles or engines for resale. 42 U.S.C. § 7550.
9. A motor vehicle is defined as any self-propelled vehicle designed for transporting persons or property on a street or highway. 42 U.S.C. § 7550(2).
10. Under section 216 of the CAA, a nonroad engine is defined as an internal combustion engine that is not used in an on-road motor vehicle, a competition vehicle, or as a stationary source, and a nonroad vehicle is defined as a vehicle powered by a nonroad engine. 42 U.S.C. §§ 7550(10)-(11). See also 40 C.F.R. §§ 1054.801 and 1068.30.

11. The term new, as it relates to motor vehicles, includes any imported motor vehicle that was manufactured after the effective date of a regulation that first set standards for such vehicles. 42 U.S.C. § 7550(3).
12. Motor vehicles, which include model year 2001 and later new light duty vehicles and light-duty trucks, are subject to 40 C.F.R. Part 86 (Highway Vehicles and Engines Regulations). 40 C.F.R. §§ 86.1801-01 and 86.1801-12. *See also* 40 C.F.R. § 85.1501 (applicability of Part 86 subpart P regulations covering motor vehicle imports by independent commercial importers).
13. A manufacturer of new light-duty vehicles and light-duty trucks must obtain a COC prior to importing into the United States the new vehicle. 40 C.F.R. § 86.1848-01(e). *See also* 40 C.F.R. § 85.1503(a).
14. Motor vehicles are covered by a COC only if they are in all material respects as described in the manufacturer's application for certification. 40 C.F.R. § 86.1848-01(c)(6). *See also* 40 C.F.R. § 85.1505(b).
15. Manufacturers may not sell, offer for sale, or introduce or deliver for introduction into commerce in the United States, nor may any person import into the United States, any new motor vehicle or new motor vehicle engine subject to Part 86, unless such vehicle or engine is covered by a COC issued (and in effect) under Part 86 regulations, or regulations otherwise promulgated under section 203 of the Clean Air Act. 40 C.F.R. § 86.1854-12(a)(1). *See also* 40 C.F.R. § 85.1513(a).
16. A vehicle is not a motor vehicle if the vehicle cannot exceed a maximum speed of 25 miles per hour over level, paved surfaces. 40 C.F.R. §§ 85.1703(1) and 86.1803.
17. Imported vehicles that have been modified to not exceed a maximum speed of 25 miles per hour, with a spark-ignition engine that has a nominal displacement of 1000 cc or less, maximum engine power at or below 30 kW (nonroad small SI vehicles), are subject to EPA's *Nonroad Regulations* at 40 C.F.R. Part 1054 and *the General Compliance Provisions for Nonroad Engines* at 40 C.F.R. Part 1068. 40 C.F.R. §§ 1048.615(a), 1054.15(c), and 1054.1. A manufacturer who imports a nonroad small SI vehicle without a valid exemption or COC violates the prohibitions in 40 C.F.R. § 1068.101. 40 C.F.R. §§ 1048.615(c) and 1048.801.
18. Manufacturers may not sell, offer for sale, or introduce or deliver into commerce in the United States, nor may any person import into the United States, any nonroad engine or vehicle unless such engine or vehicle is covered by a valid, EPA-issued COC for its model year and bears the required, permanently affixed EPA emission control information (ECI) label, or is properly exempted or excluded from the certification requirements. 40 C.F.R. §§ 1068.101(a)(1) and (b)(5). *See also* 40 C.F.R. § 1068.301(b).
19. Nonroad engines and vehicles are considered not covered by a COC unless they are in a configuration as described in the manufacturer's application for certification (AFC). 40 C.F.R. § 1068.101(a)(1)(i). Nonroad engines and vehicles are not covered by a COC unless they are produced during the period specified in the COC and conform to the specifications described in the COC and the AFC. 40 C.F.R. § 1068.103.

20. Beginning with Model Year 2011, nonroad small SI vehicles using Class II engines must meet the evaporative emission requirements of EPA's *Control of Evaporative Emissions from New and In-Use Nonroad and Stationary Equipment* at 40 C.F.R. Part 1060. 40 C.F.R. §§ 1054.20(b), 1054.112 and 1060.1(a)(6). Manufacturers of nonroad small SI vehicles must certify their equipment and are subject to all requirements of Part 1060. 40 C.F.R. § 1060.5(e)(3). Class II engines have a total displacement at or above 225 cc. 40 CFR § 1054.801.
21. The manufacturer of spark-ignited (SI) nonroad engines must affix a permanent and legible ECI label to those engines at the time of production. 40 C.F.R. § 1054.135. The ECI label must be durable and readable for the engine's entire life and include, among other things, the manufacturer's name, the EPA engine family name, the exhaust emission standards to which the engine is certified, and the emission compliance period. 40 C.F.R. § 1054.135(b). The ECI label must be secured to a part of the engine needed for normal operation and not normally requiring replacement. 40 C.F.R. § 1054.135(b)(2). *See also* 42 U.S.C. § 7522(a)(4), 40 C.F.R. §§ 86.1807-01 and 85.1510(c) (requiring a permanent legible ECI label on an imported motor vehicle).
22. The importation of a motor vehicle which is not covered by a COC, and not otherwise authorized by EPA's regulations regarding import of motor vehicles, is prohibited, and a violation of section 203(a)(1) of the CAA. 40 C.F.R. § 85.1513. Any person who violates section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), is subject to a civil penalty of not more than \$37,500 for each vehicle or engine in violation. 42 U.S.C. § 7524(a). *See also* 40 C.F.R. § 19.4.
23. The prohibitions in section 203(a)(1) or 203(a)(4) of the CAA also apply to the sale or importation of any nonroad vehicle or engine. 42 U.S.C. § 7547(d). A manufacturer may not sell, offer for sale, introduce into commerce, deliver for introduction into commerce, or import (or cause any of the foregoing with respect to) any new nonroad small SI vehicles unless it is covered by a COC and properly labeled or is otherwise exempt from certification and labeling requirements. 40 C.F.R. § 1068.101(a)(1). A person who violates 40 C.F.R. § 1068.101(a)(1) after January 12, 2009, is subject to a civil penalty of not more than \$37,500 for each violation. 40 C.F.R. § 1068.101(a)(1).
24. Rather than referring a matter to the United States Department of Justice to commence a civil action, the EPA may assess a civil penalty through its own administrative process if the penalty sought is less than \$320,000 or if the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. CAA §§ 205(c)(1), 211(d)(1), 42 U.S.C. §§ 7524(c)(1), 7545(d)(1); 40 C.F.R. §§ 19.4, 1068.125(b). Such determination is not subject to judicial review. CAA section 205(c), 42 U.S.C. § 7524(c)(1). The Civil Penalty in this case is less than \$320,000.

Stipulated Facts

25. Respondent is a "person," as that term is defined by CAA § 302(e), 42 U.S.C. § 7602(e).

26. Respondent is a "manufacturer," as that term is defined by CAA § 216(1), 42 U.S.C. § 7550(1).
27. Respondent imported into the United States used Japanese light-duty trucks (the Subject Vehicles) as described in Table 1 of Attachment 1 to this CAFO ("Table 1"). In each EPA Declaration Form 3520-21 that Respondent submitted with entry of the Subject Vehicles, Respondent identified the Subject Vehicles as nonroad spark-ignition engines, and Respondent did not claim any exemptions or exclusions from the certification requirements for the Subject Vehicles. Respondent represented that the Subject Vehicles are each equipped with speed limiters and cannot exceed a maximum speed of 25 mph.
28. Respondent represented that the Subject Vehicles were covered by COCs for nonroad engines for the respective model year and engine families as described in Table 1.
29. The EPA determined that the COC for the engine families described in Table 1 were issued to SI nonroad engines with maximum engine power at or below 30 kw and engine displacement below 1000 cc.
30. On or about June 16, 2014, Respondent imported into the port of Long Beach, California a Daihatsu Hijet under Entry 600-6412108-4. See Table 1. On June 20, 2014, the EPA inspected this Subject Vehicle.
 - (a) The EPA determined that this Subject Vehicle's ECI label was attached to a spark plug cover. The EPA determined that the spark plug cover is not part of the engine needed for normal operation, and this cover was easily removed with a wrench.
 - (b) This ECI label identified this Subject Vehicle as certified under engine family EYMGS.6592DI. As part of the June 20, 2014 inspection, an EPA inspector drove the Subject Vehicle and was easily able to reach 46 mph on a level paved road.
 - (c) A COC covers only those vehicles that conform in all material respects to the design specifications disclosed in the application for certification. The EPA determined that this Subject Vehicle did not conform to the design specifications for Engine Family EYMGS.6592DI because that COC covers nonroad engines and the Subject Vehicle is a motor vehicle, as defined by 40 C.F.R. § 85.1703, and therefore is not covered by the COC for Engine Family EYMGS.6592DI. The EPA further determined that no COC covers this Subject Vehicle because neither the original manufacturer nor Yamagin certified it as a motor vehicle.

31. In a letter dated December 22, 2014, the EPA issued to Respondent a Request for Information under section 208(a) of the CAA, 42 U.S.C. § 7524(a) (§208 Request). This §208 Request required Respondent to provide the EPA, among other things, information related to whether the Respondent was issued an evaporative emissions COC, or had any exemptions or exclusions from the certification requirements, for non-road engines (including engines contained in non-road vehicles or equipment) imported by Yamagin into the United States since January 1, 2011.
32. In February, 2015, Respondent provided the EPA with some of the information required by the §208 Request.
33. From on or about March 4, 2011 to on or about December 8, 2014, Respondent imported into the United States 1,221 Subject Vehicles as described in Table 1.
- (a) These 1,221 Subject Vehicles use engines which each have a total displacement above 225 cc.
 - (b) These 1,221 Subject Vehicles were not covered by an evaporative emissions COC.
 - (c) Respondent's import of 1,221 Subject Vehicles not covered by an evaporative emissions COC includes three Subject Vehicles that Respondent re-imported. See Table 2 of Attachment 1 to this CAFO ("Table 2").
 - (1) In June, 2011, EPA found that two vehicles Respondent imported into the Port of Seattle under Entry 600-6352444-5 were each not covered by an evaporative emissions COC, and had a partially destroyed ECI label. To resolve these violations, Respondent entered into Expedited Settlement Agreement (ESA) Docket No. CAA-12-7987, which required Respondent to provide to EPA proof of export. Respondent exported these vehicles to Japan. However, Respondent then re-imported the two Subject Vehicles on or about November 15, 2011 under Entry 600 6360481-7. At the time of Respondent's re-importation, these two Subject Vehicles were not covered by an evaporative emissions COC.
 - (2) Respondent also re-imported the Daihatsu Hijet discussed in Paragraph **30**, above, on or about December 8, 2014 under Entry 600 6424155-1. At the time of re-importation, this Subject Vehicle was not covered by an evaporative emissions COC.
34. On or about April 11, 2015, Respondent imported into the United States at the Port of Los Angeles, California six Subject Vehicles under Entry No. 600-6430848-3. See Table 1.
- (a) On April 22 and 23, 2015, the EPA and Customs and Border Protection (CBP) inspected two Subject Vehicles which were a representative sample. The ECI labels on the inspected vehicles indicated that one was certified under engine

family FYMGS.660K6A and one was certified under engine family FYMGS.6592DI.

- (b) At the inspection, the EPA inspectors took a sample of the muffler/exhaust assembly from each of the representative vehicles and sent it to an EPA contractor for analysis.
- (c) Physical and chemical examination of the muffler assembly for engine family FYMGS.660K6A revealed that the design of the catalyst contained therein is materially different from the catalyst design specified in the AFC for this engine family.
- (d) Physical and chemical examination of the muffler assembly for engine family FYMGS.6592DI revealed that the design of the catalyst contained therein is materially different from the catalyst design specified in the AFC for this engine family.
- (e) Because each of the inspected catalysts does not conform to the precious metal specifications and calculated cell density in the corresponding AFC for engine families FYMGS.660K6A and FYMGS.6592DI, the EPA concludes that the Subject Vehicles are not covered by the COC for these engine families.
- (f) The EPA determined that the ECI labels on the inspected vehicles could be peeled off, demonstrating that the labels were easily removable without destroying or defacing.

Alleged Violations of Law

Complainant alleges:

- 35. On or about June 16, 2014, the Daihatsu Hijet described in Paragraph **30** is a “motor vehicle” as that term is defined by 42 U.S.C. § 7550(2). By importing this Subject Vehicle, Respondent is liable for one violation of Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), for all the reasons summarized above in Paragraph **30**.
- 36. Aside from the Daihatsu Hijet described in Paragraph **30**, the Subject Vehicles are “equipment” containing “nonroad engines” as those terms are defined by 40 C.F.R. §1054.801. By importing the 1,227 Subject Vehicles that are improperly labeled and not covered by a COC for all the reasons summarized above in Paragraphs **33** and **34**, Respondent committed 1,227 violations of CAA 203(a)(1) and 213(d), 42 U.S.C. §§ 7522(a)(1) and 7547(d), and the corresponding regulations codified at 40 C.F.R. §§ 1068.101(a)(1) and (b)(5).

Terms of Agreement

37. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent: admits that the EPA has jurisdiction over this matter as stated above; admits to the stipulated facts stated above; neither admits nor denies the alleged violations of law stated above; consents to the assessment of a civil penalty as stated below; consents to the issuance of any specified compliance or corrective action order; consents to any conditions specified in this Consent Agreement, and to any stated Permit Action; waives any right to contest the alleged violations of law; and waives its rights to appeal the Final Order accompanying this Consent Agreement.
38. For the purpose of this proceeding, Respondent:
- (a) agrees that this Agreement states a claim upon which relief may be granted against Respondent;
 - (b) waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
 - (c) waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action the United States District Court for Central District of California to enforce this Agreement or Order, or both, and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action;
 - (d) consents to personal jurisdiction in any action to enforce this Agreement or Order, or both, in the United States District Court for Central District of California;
 - (e) agrees that Respondent may not delegate duties under this Consent Agreement to any other party without the written consent of the EPA, which may be granted or withheld at EPA's unfettered discretion. If the EPA so consents, the Consent Agreement is binding on the party or parties to whom the duties are delegated;
 - (f) acknowledges that this Agreement constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
 - (g) acknowledges that this Consent Agreement and attached Final Order will be available to the public and agree that it does not contain any confidential business information or personally identifiable information;
 - (h) acknowledges that its tax identification number may be used for collecting or reporting any delinquent monetary obligation arising from this Agreement (see 31 U.S.C. § 7701);

- (i) certifies that the information it has supplied concerning this matter was at the time of submission, and is at the time of signature to this CAFO, true, accurate, and complete; and
 - (j) acknowledges that there are significant penalties for knowingly submitting false or misleading information, including the possibility of fines and imprisonment (see 18 U.S.C. § 1001).
39. For purposes of this proceeding, the parties each agree that:
- (a) this Consent Agreement constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof;
 - (b) this Consent Agreement may be signed in any number of counterparts, each of which will be deemed an original and, when taken together, constitute one agreement; the counterparts are binding on each of the parties individually as fully and completely as if the parties had signed one single instrument, so that the rights and liabilities of the parties will be unaffected by the failure of any of the undersigned to execute any or all of the counterparts; any signature page and any copy of a signed signature page may be detached from any counterpart and attached to any other counterpart of this Consent Agreement;
 - (c) its undersigned representative is fully authorized by the Party whom he or she represents to bind that Party to this Consent Agreement and to execute it on behalf of that Party; and
 - (d) Except as set forth in Paragraph 46 below, each party will bear their own costs and attorney fees in the action resolved by this Consent Agreement and attached Final Order.
40. Respondent agrees to pay to the United States a civil penalty of **\$65,000** (the "Civil Penalty"). EPA reduced the civil penalty sought due to information produced by Respondent demonstrating its inability to pay a higher penalty.
41. Respondent agrees to pay the Civil Penalty to the United States within 30 calendar days of the effective date of this CAFO.
42. Respondent agrees to pay the Civil Penalty in the manner specified below:
- (a) Respondent shall pay the civil penalty within thirty (30) days of the effective date of this CAFO by one of the methods listed below:
 - i. Respondent may pay online through the Department of the Treasury website at 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.

- ii. Respondent may also pay the civil penalty using any method, or combination of methods, provided on the following website:

<http://www2.epa.gov/financial/additional-instructions-making-payments-epa>

If clarification regarding a particular method of payment remittance is needed, contact the EPA's Cincinnati Finance Center at (513) 487-2091.

- (b) Respondent shall identify each and every payment with the name and docket number of this case; and
- (c) Within 24 hours of payment, and as required by 40 C.F.R. § 22.31(c), Respondent shall provide EPA with proof of payment ("proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the name and docket number of this case) to the following addresses:

Regional Hearing Clerk
Office of Regional Counsel (ORC-1)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Margaret Alkon
Office of Regional Counsel (ORC-2)
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105
[or via email to: alkon.margaret@epa.gov]

- 43. Respondent certifies that all information regarding actions already taken by Respondent at the time of signature to this CAFO, as set out in Attachment 2 to this CAFO is true, accurate, and complete. Attachment 2 describes Respondent's actions to ensure that all vehicles and nonroad engines imported into the United States by Respondent shall comply with the Act, including but not limited to EPA's Nonroad Regulations at 40 C.F.R. Part 1054, the General Compliance Provisions for Nonroad Engines at 40 C.F.R. Part 1068, Control of Evaporative Emissions from New and In-Use Nonroad and Stationary Equipment at 40 C.F.R. Part 1060 and the Highway Vehicles and Engines Regulations at 40 C.F.R. Part 86.

Effect of Consent Agreement and Attached Final Order


44. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this Consent Agreement and attached Final Order resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.
45. Failure to pay the full amount of the penalty assessed under this Consent Agreement may subject Respondent to a civil action to collect any unpaid portion of the proposed civil penalty and interest. In order to avoid the assessment of interest, administrative costs, and late payment penalty in connection with such civil penalty, as described in the following Paragraph of this Consent Agreement, Respondent must timely pay the penalty.
46. If Respondent fails to timely pay any portion of the penalty assessed by the attached Final Order, the EPA may:
 - (a) request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);
 - (b) refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
 - (c) collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds (see 40 C.F.R. Part 13, Subparts C and H); and
 - (d) suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.
47. Penalties paid pursuant to this Consent Agreement are not deductible for federal tax purposes. 28 U.S.C. § 162(f).
48. The provisions of this CAFO shall be binding on Respondents and on Respondents' officers, directors, employees, agents, servants, authorized representatives, successors, and assigns.
49. Nothing in this CAFO is intended to or shall be construed to resolve: (i) any civil liability for violations of any provision of any federal, state, or local law, statute, regulation, rule, ordinance, or permit not specifically alleged in this CAFO; or (ii) any criminal liability. EPA specifically reserves any and all authorities, rights, and remedies available to it (including, but not limited to, injunctive or other equitable relief or criminal sanctions) to address any violation of this CAFO or any violation not specifically alleged in this

CAFO. This CAFO does not exempt, relieve, modify, or affect in any way Respondents' duties to comply with all applicable federal, state, and local laws, regulations, rules, ordinances, and permits.

50. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, the EPA will transmit a copy of the filed Consent Agreement to the Respondent. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), the effective date of this CAFO shall be the date on which the accompanying Final Order, having been signed by the Regional Judicial Officer, is filed.


The foregoing Consent Agreement In the Matter of Yamagin Tsusho Company Limited d/b/a Yamagin Corporation, is Hereby Stipulated, Agreed, and Approved for Entry.


For Yamagin Tsusho Company Limited:

 _____ MAY 27, 2016
Signature Date

Printed Name: HIROSHI SATO


Title: PRESIDENT

Address: 

Respondent's Federal Tax Identification Number: 

For Complainant:

6/22/16
Date

 _____
Kathleen H. Johnson
Director
Enforcement Division
EPA Region 9

ATTACHMENT 1

Table 1: Subject Vehicles

Claimed Engine Family	Year of Import	Equipment Description	Violation	No. of vehicles
BYMGS.6572MI	2011	Mitsubishi and Nissan mini trucks	A	80
BYMGS.6592DC	2011	Daihatsu Hijet mini trucks	A	62
BYMGS.660K6A	2011	Suzuki mini trucks	A	73
CYMGS.6572MI	2012	Mitsubishi and Nissan mini trucks	A	86
CYMGS.6592DC	2012	Daihatsu Hijet mini trucks	A	134
CYMGS.6592DI	2012	Daihatsu Hijet mini trucks	A	13
CYMGS.660K6A	2012	Suzuki mini trucks	A	83
DYMGS.6572MI	2013	Mitsubishi and Nissan mini trucks	A	76
DYMGS.6592DC	2013	Daihatsu Hijet mini trucks	A	162
DYMGS.6592DI	2013	Daihatsu Hijet mini trucks	A	13
DYMGS.660K6A	2013	Suzuki mini trucks	A	101
EYMGS.6572MI	2014	Mitsubishi and Nissan mini trucks	A	76
EYMGS.6592DC	2014	Daihatsu Hijet mini trucks	A	113
EYMGS.6592DI	2014	Daihatsu Hijet mini trucks	A	23
EYMGS.660K6A	2014	Suzuki mini trucks	A	126
Sub-Total				1221*
EYMGS.659DI	2014	Daihatsu Hijet imported on or about June 16, 2014, under Entry No. 600 642108-4.*	C, D	1
FYMGS.660K6A	2015	Suzuki mini trucks imported on or about April 11, 2015, under Entry No. 600-6430848-3 at Port of Los Angeles. Catalyst differed in precious metal composition and cell density from engine family FYMGS.660K6A and ECI label could be peeled off.	B, C	5
FYMGS.6592DI	2015	Daihatsu Hijet imported on or about April 11, 2015, under Entry No. 600-6430848-3 at Port of Los Angeles. Catalyst differed in precious metal composition and cell density from engine family FYMGS.6592DI and ECI label could be peeled off.	B, C	1
Total:				1,228

*See Table 2

Table Key: Description of Violations:

Violation A: Uncertified because the vehicles are not covered by an evaporative emissions COC

Violation B: Uncertified because the precious metal composition and cell density in the vehicle's catalysts materially differed from the description in the COC application for the claimed engine family

Violation C: ECI label not permanently affixed to a part of the engine needed for normal operation

Violation D: Uncertified because the vehicle not speed controlled, not covered by a motor vehicle COC

Table 2: Respondent's Re-Importation of Subject Vehicles

Claimed Engine Family	Year of Import	Explanation	Quantity
BYMGS.6572.MI BYMGS.660K6A	2011	<p>In June 2011, Respondent imported two vehicles into the Port of Seattle under <u>Entry 600-6352444-5</u>. EPA found that these vehicles were each not covered by an evaporative emissions COC, and had a partially destroyed ECI label. To resolve these violations, Respondent entered into Expedited Settlement Agreement (ESA) Docket No. CAA-12-7987, which required Respondent to provide to EPA proof of export. Respondent provided EPA with such proof that Respondent exported these vehicles.</p> <p>However, on or about November 15, 2011, under Entry No. 600 6360481-7, Respondent re-imported these vehicles, still without an evaporative emissions COC.</p> <p>The subtotal in Table 1 includes Respondent's November 15, 2011 re-import of these vehicles but excludes Respondent's earlier import of these vehicles that was the subject of Expedited Settlement Agreement (ESA) Docket No. CAA-12-7987.</p>	2
EYMGS.659DI	2014	<p>On or about June 16, 2014, Respondent imported a Daihatsu Hijet under <u>Entry No. 600 642108-4</u>. This vehicle was not speed controlled, and the violation for this initial import is listed separately in Table 1. Respondent exported the vehicle.</p> <p>However, on or about December 8, 2014, under Entry No. 600 6424155-1, Respondent re-imported this vehicle without an evaporative emissions COC.</p> <p>The subtotal in Table 1 includes Respondent's second import of this vehicle.</p>	1

ATTACHMENT 2

Attachment 2 describes Respondent's actions to ensure that all vehicles and nonroad engines imported into the United States by Respondent shall comply with the Act, including but not limited to EPA's Nonroad Regulations at 40 C.F.R. Part 1054, the General Compliance Provisions for Nonroad Engines at 40 C.F.R. Part 1068, Control of Evaporative Emissions from New and In-Use Nonroad and Stationary Equipment at 40 C.F.R. Part 1060 and the Highway Vehicles and Engines Regulations at 40 C.F.R. Part 86.

A1. Respondent has reviewed its procedures to ensure the following for each vehicle imported into the United States:

- a. each vehicle's category of use is correctly described in import documents;
- b. the vehicle is, at the time of import, covered by valid Certificates of Conformity (COC) for exhaust and evaporative emissions;
- c. all relevant parts, including but not limited to the catalyst, conform to the description in such COC and associated application for COCs;
- d. each vehicle and engine bears all appropriate EPA emissions labels;
- e. each label meets EPA regulatory criteria for language, placement, and durability;
- f. each vehicle to be imported as a nonroad vehicle with speed control is properly fitted with speed control and Respondent maintains records by vehicle identification number allowing Respondent to determine and provide to EPA the date of installation, location of installation, and type of speed control installed in each vehicle;
- g. the catalyst conforms to the COC for the engine family; and
- h. information to be provided to the ultimate purchaser includes all required warranty information, including accurate information about the speed governor for any vehicle imported for nonroad use with a speed governor.

A2. Respondent certifies that as of the signing of this CAFO Respondent has taken the following actions:

- a. Obtained Evaporative Certificates for the vehicles it imports;
- b. Switched to a different material that is more tamper-proof for its ECI labels;
- c. Engaged an engineer from a supplier of speed limiters to travel to Tokyo during the week of May 22, 2016 to May 27, 2016 in order to develop a fully functional electronic speed limiter for engine family GYMGS.6572DK and to review the proper functionality of the electronic speed limiters utilized by Yamagin on its other imported vehicles;

- d. Conducted catalyst testing and provided to EPA catalyst composition information as per the specifications in EPA's September 14, 2015 Manufacturer Letter CD-15-23 (NRSI); and
- e. Reviewed its warranty language and added to its Warranty Coverage booklet and invoices the statement "Tampering with the speed limiting device installed in this unit is a violation of the Federal Clean Air Act and strictly prohibited."

II. FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the EPA's Consolidated Rules of Practice and section 205(c)(1) of the Clean Air Act, 42 U.S.C. § 7524(c)(1), the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

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

So ordered.

Date: 06/27/16



Steven Jawgiel
Regional Judicial Officer
U.S. EPA, Region IX

CERTIFICATE OF SERVICE

I certify that the original of the fully executed Consent Agreement and Final Order in the matter of Yamagin Tsusho Company Limited d/b/a Yamagin Corporation, LLC (**Docket #s: CAA-R9-2016-0002**) was filed with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, and that a true and correct copy of the same was sent to the following parties:

A copy was mailed via CERTIFIED MAIL to:

David Okamoto
Agent for Service of Process
Yamagin Tsusho Company Limited
d/b/a Yamagin Corporation
13951 S. Main Street
Los Angeles, CA 90061

CERTIFIED MAIL NUMBER: 7015 3010 0000 3883 6076

With a copy emailed to Rika Vaughn, Esq. at **rikavaughn@att.net**

An additional copy was hand-delivered to the following U.S. EPA case attorney:

Margaret Alkon
Assistant Regional Counsel (ORC-2)
U.S. EPA, Region IX
75 Hawthorne Street
San Francisco, CA 94105

VERA ZEH TOLENTINO

FOR: Regional Hearing Clerk (Printed)
U.S. EPA, Region IX

FOR: 
Regional Hearing Clerk Signature

6/28/16
Date