

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, DC

_____)	
In the Matter of:)	
)	Administrative Settlement Agreement
Pramac Industries, Inc.,)	
)	AED/MSEB # 7881
Respondent.)	
_____)	

Purpose

1. The United States Environmental Protection Agency (EPA) and Pramac Industries, Inc. (Pramac Industries) enter into this Administrative Settlement Agreement (Agreement) to resolve alleged violations of sections 203 and 213(d) of the Clean Air Act (Act), 42 U.S.C. §§ 7522 and 7547(d), and 40 C.F.R. § 89.1003(a)(4).

Governing Law

2. Model year 2007 nonroad compression-ignition internal combustion engines (nonroad CI ICEs) are subject to the emission standards, certification provisions, general enforcement provisions, and prohibited acts set forth in 40 C.F.R. Part 89. *See also* 40 C.F.R. § 1039.1 (providing model years when nonroad CI ICEs, depending on their power, become regulated under 40 C.F.R. Part 1039).
3. A manufacturer may not sell, offer for sale, or introduce or deliver into commerce a model year 2007 nonroad CI ICEs unless that engine bears a compliant emission control information (ECI) label. 40 C.F.R. § 89.1003(a)(4)(ii); *see also* 42 U.S.C. § 7550(1) (defining “manufacturer” to include importers).

4. An emission control label for a model year 2007 new nonroad CI ICE is compliant only if it is permanently affixed at the time of manufacture, secured to a part of the engine needed for normal operation and not normally requiring replacement, and states the information enumerated in 40 C.F.R. § 89.110(b). 40 C.F.R. § 89.110.
5. If the equipment in which a nonroad CI ICE is installed obscures the engine's emission control label, then a supplemental label may be affixed to the equipment. 40 C.F.R. § 89.110(a)(5).
6. A person who violated 40 C.F.R. § 89.1003(a)(4) between March 15, 2004, and January 12, 2009, is subject to a civil penalty of not more than \$32,500 per engine. 42 U.S.C. § 7524(a); 40 C.F.R. § 89.1006(a)(3); *see also* 40 C.F.R. §§ 19.4, 89.1006(a), 89.1006(a)(6) (defining a violation of 40 C.F.R. § 89.1003(a)(4) as being a violation of 42 U.S.C §§ 7522 and 7547(d) for which the penalty cap has been adjusted for inflation).
7. Rather than referring a matter to the United States Department of Justice to commence a civil action, EPA may assess a civil penalty through its own administrative process if the penalty sought is less than \$270,000 for violations committed after March 15, 2004, and January 12, 2009. 42 U.S.C. § 7524(c); 40 C.F.R. § 89.1006(c); *see also* 40 C.F.R. §§ 19.4, 89.1006(a), 89.1006(a)(6) (defining a violation of 40 C.F.R. § 89.1003(a) as being a violation of 42 U.S.C §§ 7522 and 7547 for which the administrative penalty cap has been adjusted for inflation).

Violations

8. On or about November 20, 2008, Pramac Industries imported into the United States the 13 nonroad CI ICEs described in the following table (Subject Engines):

Subject Engines						
Entry Number	Engine Manufacturer, Model Number	Generator Manufacturer, Model Number	Engine Power	Model Year	EPA Engine Family	Quantity
AM5-4215615-4	Deutz, BF4M2011	Pramac, GBL42D	47.3 kilowatts	2007	7DZXL03 .1039	13

9. The Subject Engines are nonroad CI ICEs regulated under 40 C.F.R Part 89. 40 C.F.R. §§ 89.1, 1039.1.
10. Through consultation with those CBP officers who inspected the Subject Engines, EPA has determined that the Subject Engines bore no EPA ECI label.
11. Though the equipment containing the Subject Engines had ECI labels, these supplemental labels does not affect the requirement that the engines themselves have ECI labels.
12. Though plastic bags containing loose ECI labels were attached to or near the Subject Engines, this does not satisfy the requirement that ECI labels be permanently affixed at the time of manufacture.
13. Therefore, EPA has determined that Pramac Industries committed 13 violations of 40 C.F.R. § 89.1003(a)(4) and sections 203 and 213(d) of the Act, 42 U.S.C. §§ 7522 and 7547(d), when it imported the unlabeled Subject Engines.

Civil Penalty

14. Pramac Industries must pay to the United States a civil penalty of \$8,500 (EPA Penalty).
15. Pramac Industries agrees to pay the EPA Penalty to the United States within the 30 calendar days immediately following the effective date of this Agreement (as defined in ¶ 22). Late payment is subject to interest and fees as specified in 31 U.S.C. § 3717, and such interest and fees must be paid by Pramac Industries on demand by the United States. Pramac Industries agrees to pay the EPA penalty in the manner specified in subparagraph a. or b. below:
 - a. Mail by United States Postal Service a certified check or cashier's check, payable to the United States of America, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
ATTN: AED/MSEB # 7881
 - b. 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 must be identified with case number AED/MSEB # 7881. Within 24 hours of payment, scan and email a copy of the receipt to belser.evan@epa.gov.
16. Beside the EPA Penalty, Pramac Industries acknowledges that CBP may assess separate penalties related to the Subject Stationary and Nonroad Engines.

Remedial Action

17. Pramac Industries must submit to EPA a written certification that the Subject Stationary and Nonroad Engines were exported or destroyed and supporting documents issued by CBP proving exportation or destruction. This must be completed within the 30 calendar days immediately following the effective date of this Agreement (as defined in ¶ 22).

Stipulated Penalties

18. Pramac Industries agrees to pay a stipulated penalty of:
 - a. \$1,000 per day for its failure to timely pay the civil penalty or provide proof of such payment according to ¶ 15; and
 - b. \$1,000 per day for its failure to timely provide the certification and documentation required by ¶ 15.
19. Every stipulated penalty must be paid within 30 calendar days of its corresponding precipitating event as listed in ¶ 18 and in the manner specified in ¶ 15 of this Agreement.

Effect of Agreement

20. Upon completion of the terms of this Agreement, the alleged violations described in this Agreement will be deemed resolved. Nothing herein limits EPA's rights to proceed against Pramac Industries for its default or noncompliance with this Agreement, for violations of the Clean Air Act, 42 U.S.C. §§ 7401–7671q, or the Act's implementing regulations which are not the subject matter of this Agreement, for other violations of law, or with respect to other matters not within the scope of the Agreement.

General Provisions

21. All correspondence to EPA or notifications required by this Agreement must be in writing and emailed to belser.evan@epa.gov or mailed to:
- | | |
|----------------------------|-----------------------------|
| (U.S. Postal Service Mail) | (Courier Service) |
| Evan Belser | Evan Belser |
| U.S. EPA | U.S. EPA |
| Mail Code 2242A | Ariel Rios South, Room 1111 |
| 1200 Pennsylvania Ave., NW | 1200 Pennsylvania Ave., NW |
| Washington, DC 20460 | Washington, DC 20004 |
| Attn: AED/MSEB # 7881 | Attn: AED/MSEB # 7881 |
22. This Agreement becomes effective on the date executed by EPA (effective date of the Agreement), at which time a fully executed electronic copy will be returned to Pramac Industries.
23. The individual or individuals executing this Agreement on behalf of Pramac Industries are authorized to do so and such execution is intended to and does bind Pramac Industries and its agents, successors, and assigns.
24. This 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 may be detached from any counterpart and attached to any other counterpart of this Agreement.
25. This 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.

26. Pramac Industries may not delegate its duties under this Agreement to any other party without the written consent of EPA, which may be granted or withheld at EPA's sole discretion. If EPA so consents, the Agreement is binding on the party or parties to whom the duties are delegated.
27. Notwithstanding any other provision of this Agreement, the parties agree that upon Pramac Industries' default or failure to comply with the terms of this Agreement, EPA may refer this matter to the United States Attorney General pursuant to § 205 of the Act, 42 U.S.C. § 7524, to commence a civil action against Pramac Industries in United States Federal District Court to enforce this Agreement, recover civil and stipulated penalties, and pursue any other available remedies. Pramac Industries expressly waives its right to assert that the Subject Stationary and Nonroad Engines are certified or exempt from the certification requirements, or that such action is barred by 18 U.S.C. § 3282(a), other statutes of limitation, or other provisions limiting actions as a result of passage of time. Pramac Industries acknowledges that EPA intends to use Pramac Industries' tax identification number, which Pramac Industries has appended to this Agreement, for the purpose of collecting or reporting any delinquent monetary obligations arising from this Agreement. 31 U.S.C. § 7701.
28. Pramac Industries waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to the matters agreed to herein.
29. Nothing in this Agreement, whether express or implied, is intended or will be construed to confer on or give to any party, other than EPA and Pramac Industries, any rights, remedies, or other benefits.

30. The validity, enforceability, and construction of all matters pertaining to this Agreement will be determined in accordance with applicable federal law.
31. This Agreement is contingent on the truthfulness, accuracy, and completeness of Pramac Industries' disclosures and representations to EPA including, but not limited to, representations regarding importations and the construction and configuration of the Subject Engines.
32. This Agreement in no way affects or relieves Pramac Industries of responsibility to comply with other federal, state, or local laws or regulations.

SIGNATURES ON FOLLOWING PAGES

United States Environmental Protection Agency

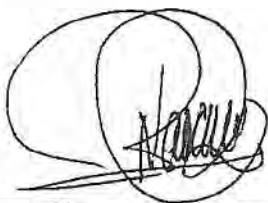
Administrative Settlement Agreement

In the Matter of Pramac Industries, Inc.

AED/MSEB # 7881

The following agrees to the terms of this Agreement:

Pramac Industries, Inc.



By: _____

Typed or Printed Name: RICARDO NAVARRO-ROJO

Typed or Printed Title: PRESIDENT

Federal Tax Identification Number: 58-2274313

Date: 09/13/2011

United States Environmental Protection Agency

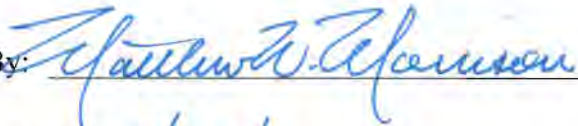
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The following agrees to the terms of this Agreement:

United States Environmental Protection Agency

By: 

Date: 9/23/11

Phillip A. Brooks, Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency