

**Enclosure**  
**CLEAN AIR ACT MOBILE SOURCE EXPEDITED SETTLEMENT AGREEMENT**

DOCKET NO. CAA-11-7926

Respondent: Robert Branagh  
General Manager  
Sea Tech & Fun USA, LLC dba Aquatech Marine  
2723 Palm Bay Road NE  
Palm Bay, FL 32905

1. The parties enter into this Clean Air Act Mobile Source Expedited Settlement Agreement (Agreement) in order to settle the civil violations discovered as a result of the inspection specified in Table 1, attached, incorporated into this Agreement by reference. The civil violations that are the subject of this Agreement are described in Table 2, attached, incorporated into the Agreement by reference, regarding the vehicles/engines specified therein.
2. Respondent admits being subject to the Clean Air Act (CAA) and its associated regulations and that the United States Environmental Protection Agency (EPA) has jurisdiction over the Respondent and the Respondent's conduct described in Table 2. Respondent does not contest the findings detailed therein, and waives any objections Respondent may have to EPA's jurisdiction.
3. Respondent consents to the payment of a penalty in the amount of \$3,800, further described in Table 3, attached, incorporated into the Agreement by reference. Respondent agrees to follow the instructions in "CAA Mobile Source Expedited Settlement Agreement Instructions," attached, incorporated into this Agreement by reference. Respondent certifies that the required remediation, detailed in Table 3, has been carried out.
4. By its first signature below, EPA approves the findings resulting from the inspection and alleged violations set forth in Table 1 and Table 2. Upon signing and returning this Expedited Settlement Agreement to EPA, Respondent consents to the terms of the Expedited Settlement without further notice. Respondent acknowledges that this Expedited Settlement Agreement is binding on the parties signing below, and becomes effective on the date of the EPA Air Enforcement Division Director's ratifying signature.

APPROVED BY EPA:

  
for Phillip A. Brooks, Director, Air Enforcement Division

Date: 10/13/10

APPROVED BY RESPONDENT:

Name (print): Robert Branagh

Title (print): General Manager

Signature: 

Date: 11/15/10

RATIFIED BY EPA:

  
for Phillip A. Brooks, Director, Air Enforcement Division

Date: 1/13/11



**Table 1 - Inspection Information**

<b>Entry/Inspection Date(s):</b>		<b>Docket Number:</b>	
July 12, 2010		C A A - 1 1 - 7 9 2 6	
<b>Inspection Location:</b>		<b>Entry/Inspection Number(s)</b>	
CBP Warehouse		4 6 2 - 0 8 0 8 4 6 8 - 4	
<b>Address:</b>			
2831 Talleyrand Avenue			
<b>City:</b>		<b>Inspector(s) Name(s):</b>	
Jacksonville		CBP Officer Eligio Burgos	
<b>State:</b>	<b>Zip Code:</b>	<b>EPA Approving Official:</b>	
FL	32218	Phillip A. Brooks	
<b>Respondent:</b>		<b>EPA Enforcement Contact:</b>	
Sea Tech & Fun USA, LLC dba Aquatech Marine		Jocelyn Adair (202)564-1011	

**Table 2 – Description of Violations and Vehicles/Engines**

The Clean Air Act (Act) and its regulations prohibit any person from importing into the United States a new propulsion marine spark-ignition engine (marine SI engine) unless the engine is covered by an EPA-issued certificate of conformity (COC). 40 C.F.R. § 91.1103(a)(ii) (prohibiting uncertified imports for model years 1998 to 2009); 40 C.F.R. § 1068.101(a)(1) (prohibiting uncertified imports beginning with model year 2010); see also 42 U.S.C. § 216(1) (defining manufacturer to include any person who imports new engines). Regarding the model year 2010 engines, the COC covers engines produced starting on its indicated effective date, or at the beginning of the annual production period indicated by the applicant on its application, but never before the application for the COC is submitted. 40 C.F.R. §§ 1045.201(a), 1068.103. A COC never covers an engine produced after December 31 of the calendar year for which the engine family is named. 40 C.F.R. §§ 91.3, 1045.801.

The Act also prohibits any person from importing into the United States a marine SI engine unless an appropriate label or tag is affixed to the engine. 40 C.F.R. §§ 91.1103(a)(4)(ii), 1068.101(a)(1); see also 40 C.F.R. §§ 91.113, 1045.135, 1068.45 (specifying label requirements).

Here, Sea Tech & Fun USA, LLC dba Aqua Tech Marine (Respondent) imported into the United States the 52 subject engines identified below in this table. These engines fall into three groups based on their compliance with the Act and its regulations. The first group consists of 15 2-stroke engines, identified below as Group A. These engines were not covered by a COC; in fact, there is no indication that a COC was ever sought for these 2-stroke models. Therefore, Respondent committed 15 violations of the Act and its regulations by importing them.

The second group consists of 15 4-stroke engines, identified below as Group B. Each one of these engines was produced in January, February, or March 2010 according to its engine serial number. In the applications for the three COCs which cover these engine models (AHZHM.072004, AHZHM.112003, and AHZHM.323001), Hangzhou Hidea Power Machinery Co., Ltd. (Hidea) specified an annual production period starting on April 15, 2010. As described above, no model year 2009 COC covers any engines produced after December 31, 2009. In short, each of the 15 Group B engines was not covered by a COC because each was produced after the production period covered by the 2009 COCs and before the production period covered by the 2010 COCs. Therefore, Respondent committed 15 violations of the Act and its regulations by importing them.

The third group consists of 22 4-stroke engines, identified below as Group C. These engines were not labeled, so Respondent committed 22 violations of the Act and its regulations by importing these unlabeled engines. Note, EPA has determined that these engines were likely produced after April 15, 2010 based on engine serial number and lacking any information to the contrary. In sum, Respondent committed 22 labeling violations and 30 certification violations.



**Table 2 continued**

	<u>Engine Model</u>	<u>EPA Engine Family</u>	<u>Model Year</u>	<u>Engine Serial Number</u>	<u>Quantity</u>
<b>Group A</b> (2-stroke)	HD9.9FHS 2-stroke	None	2010	10A0011, 10A0002, 10A0005, 10A0009, 10D0006	5
	HD15FHS	None	2009	09J0009, 09K0055, 09K0003	3
	HD15FHS	None	2010	10A0027, 10B0007, 10B0009, 10B0020, 10B0016, 10B0012, 10D0026	7
<b>Group B</b> (4-stroke)	HDF2.5HS	None	2010	10A0033, 10A0034, 10A0045, 10B0021, 10B0003	5
	HDF4HS	None	2010	10C0011	1
	HDF15HS	None	2010	10A0011, 10A0092, 10A00103, 10A00106, 10A0076, 10A00104, 10A0097, 10A00100, 10A0033	9
<b>Group C</b> (4-stroke)	HDF4HS	AHZHM.112003	2010	10D0008, 10D0012, 10D0001, 10D0014	4
	HDF4HL	AHZHM.112003	2010	10D0002, 10D0011, 10D0020, 10D0009, 10D0019	5
	HDF8HS	AHZHM.212002	2010	10D0003, 10D0007, 10D0002, 10D0013, 10D0005	5
	HDF9.9HS	AHZHM.212002	2010	10D0014, 10D0006, 10D0005, 10D0009, 10D0011	5
	HDF15HL	AHZHM.323001	2010	10D0016, 10D0026	2
	HDF15HS	9HZHM.323001	2009	09I0025	1

**Table 3 - Penalty and Required Remediation**

<b>Penalty</b>	\$ 3,800
<b>Required Remediation</b>	<p>(A) Respondent must destroy or export (to a place other than United States territories, Canada, and Mexico) all 30 engines in Groups A and B and provide EPA with a report and documentation proving destruction or exportation.</p> <p>(B) For the 22 engines listed above in Group C, Respondent must either:</p> <p>(1) destroy or export (to a place other than United States territories, Canada and Mexico) all 22 engines and provide EPA with a report and documentation proving destruction or exportation, or</p> <p>(2) label each of the 22 engines according to 40 C.F.R. §§ 91.113, 1045.135, and 1068.45 as follows:</p> <p>(a) Respondent notifies Mark Siegler at <a href="mailto:siegler.mark@epa.gov">siegler.mark@epa.gov</a> of the location where Respondent will photograph and label these engines (as described below).</p> <p>(b) Then, Respondent emails to Mr. Siegler digital photographs that legibly show the serial numbers on each of the 22 engines and a digital copy of the 22 proposed labels.</p> <p>(c) Only after receiving approval from Mr. Siegler, Respondent permanently affixes the approved labels to each of the 22 engines. Respondent will receive Mr. Siegler's approval if and only if the proffered labels fully comply with all applicable laws. If Mr. Siegler disapproves any labels, the corresponding engines must be destroyed or exported as described above in ¶ (B)(1);</p>

	<p>(d) Respondent emails to Mr. Siegler digital photographs that legibly show every approved label affixed to its correct engine, and a scanned copy of a completed Affirmation of Inspection of EPA Emission Control Information Label (incorporated into this Agreement as Exhibit 1) listing those engines in Group C which could be properly labeled.</p>
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