

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, DC**

**ADMINISTRATIVE SETTLEMENT AGREEMENT**

In the Matter of:

Pramac Industries, Inc.

Respondent

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AED/MSEB # 7259

This Administrative Settlement Agreement is made and entered into by and between the United States Environmental Protection Agency (“EPA”), and Pramac Industries, Inc., 10100 NW 116th Way, Suite 10, Medley, FL 33178 (“Respondent” or “Pramac”) regarding Respondent’s compliance with the requirements of the Clean Air Act (“the Act”) and the regulations promulgated thereunder at 40 C.F.R. Part 89.

**Purpose**

1. The purpose of this Administrative Settlement Agreement (“Agreement”) is to resolve any and all claims by EPA under the Act and 40 C.F.R. Part 89 (“Nonroad Regulations”) arising out of the importation of thirty-nine (39) compression ignition (“CI”) nonroad engines and equipment containing those engines (“the Subject Engines”), as described in Attachment 1.

**Definitions**

2. For the purposes of this Agreement, the following definitions apply:
  - a. *Applicable regulation and dates:* 40 C.F.R. Part 89 is applicable to nonroad compression ignition engines built after the applicability dates in 40 C.F.R. Part 89.
  - b. *This matter:* As used in this Agreement, “this matter” means the Respondent’s importation of the Subject Engines identified in Attachment 1 and any civil liability that may apply to violations of the Clean Air Act and implementing regulations at 40 C.F.R. Part 89.

- c. *Certificate of Conformity*: A “Certificate of Conformity” means the document issued by EPA to a manufacturer under 40 C.F.R. § 89.105, after EPA has determined that the manufacturer’s application is complete and that the engine family meets the applicable requirements of 40 C.F.R. Part 89 and the Act. Issuance of the Certificate of Conformity permits production and introduction into commerce of engines built in accordance with the manufacturer’s application after the date of the Certificate and before expiration of the covered model year.
- d. *Certificate Holder*: The manufacturer whose name appears on the Certificate of Conformity issued for the engines covered by this Agreement pursuant to 40 C.F.R. § 89.105 is the “Certificate Holder.”
- e. *Certified engine*: A “certified engine” is a nonroad engine that was built after the applicable effective dates of the regulations at Parts 89 and that is covered by a Certificate of Conformity.
- f. *Labeling requirements*: “Labeling requirements” means collectively the requirements found at 40 C.F.R. § 89.110 that require that certified engines be labeled at the time of manufacture.
- g. *Destroy*: The term “destroy” means the complete destruction of the engine and the complete disassembly of the equipment. The water jackets of the cylinder block and the head shall be impaled in multiple locations such that they can not thereafter be made to retain coolant regardless of whether repair is attempted and the equipment shall be crushed or disassembled and damaged in such a manner that it can never be reassembled.
- h. *Export*: The term “export” means to transport to a location outside of the United States and its territories, Canada, and Mexico.

### **Statutory Authority**

3. Section 213(d) of the Clean Air Act, 42 U.S.C. § 7547(d), authorizes EPA to promulgate regulations “as may be necessary to determine compliance with, and enforce, standards in effect” under the nonroad engines and vehicles section.
4. 40 C.F.R. § 89.1003(a)(4)(ii) prohibits the sale, introduction, or delivery into commerce by an engine manufacturer of a nonroad CI engine manufactured after the applicable effective date of the regulations unless a label or tag is affixed to the engine in accordance with 40 C.F.R. § 89.110.
5. 40 C.F.R. § 89.110 requires the original engine manufacturer to affix, at the time of manufacture of a certified nonroad CI engine, a permanent and legible label identifying each nonroad engine. The content of the label must be legible and readily visible to the average person after the engine is installed in the equipment, must contain the content required by 40 C.F.R. § 89.110, and must be attached in such a manner that it cannot be removed without destroying or defacing the label.
6. 40 C.F.R. § 89.1003(a)(ii) prohibits any person to import into the United States any new nonroad engine manufactured after the applicable effective date unless such engine is covered by a certificate of conformity.
7. 40 C.F.R. § 89.1003(a)(4)(ii) prohibits the sale, offer for sale, introduction, delivery into commerce, or the causing thereof by an engine manufacturer of a nonroad CI engine manufactured after the effective dates of the regulations unless a label or tag is affixed to the engine in accordance with 40 C.F.R. § 89.110.

### **Alleged Violations**

8. On or about June 18, 2007, Respondent imported into the United States at the Port of Fort Lauderdale, FL, thirty-nine (39) CI nonroad engines and the generator sets containing the Subject Engines listed in Attachment 1.

9. Upon examination by the Department of Homeland Security's Customs and Border Protection ("CBP") and consultation with EPA, EPA determined that twenty-eight (28) of the engines were not labeled in compliance with 40 C.F.R. § 89.110. These 28 engines are the Subject Engines in this matter. Of the 39 engines, only those engines manufactured by Perkins and model number 2450/1800 were found to be in compliance with the labeling requirements.
10. EPA has determined that Respondent is the importer of the Subject Engines.

**Corrective Action**

11. Within thirty (30) days from the date that CBP releases the Subject Engines, or from the effective date of this Agreement if CBP has released the Subject Engines prior to the effective date of this Agreement, whichever is applicable, Respondent shall export the Subject Engines to a country other than Canada or Mexico or destroy the Subject Engines. This exportation or destruction shall be carried out under the supervision of CBP. Within forty-five (45) days from the applicable date under this Paragraph, Respondent shall certify to EPA and provide supporting documents that each of the Subject Engines has been either destroyed or exported under the supervision of CBP.

**Civil Penalty**

12. Respondent shall pay to the United States a civil penalty of twelve thousand dollars (\$12,000) ("EPA penalty") in satisfaction of the violations described herein, provided Respondent successfully completes the terms of this Agreement.
13. Respondent agrees to pay the \$12,000 penalty to the United States of America within thirty (30) calendar days of the effective date of this Agreement ("penalty due date"), but not before the effective date. Late payment of the EPA penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. Respondent agrees to pay the amount by either:
  - a. Certified check or cashier's check payable to the "United States of America," and mailed via United States Postal Service to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
ATTN: AED/MSEB # 7259

Simultaneously, a photocopy of the check shall be faxed to Meredith G. Miller at (202) 564-0068. This check shall be identified with the case number and Respondent's name; or

- b. Respondent may make an online payment through the Department of the Treasury by visiting [www.pay.gov](http://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." Within twenty-four hours of payment, Respondent shall fax a copy of the online payment receipt to Meredith G. Miller at (202) 564-0068.

14. Separate and apart from this EPA penalty, CBP may require payment of a forfeiture remission amount for the release of the goods from seizure.

**Notice**

15. A copy of all correspondence and certifications to EPA concerning this Agreement shall be sent to:

**(Regular Mail)**

Meredith G. Miller  
U.S. EPA  
Mail Code 2242A  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
Attn: AED/MSEB # 7259

**(Courier Service)**

Meredith G. Miller  
U.S. EPA  
Ariel Rios South, Room 2119C  
1200 Pennsylvania Ave., NW  
Washington, DC 20004  
Attn: AED/MSEB # 7259

### **General Provisions**

16. This Agreement becomes effective upon the date executed by EPA (“effective date of the Agreement”), at which time a copy will be returned to Respondent.
17. Notwithstanding any other provision of this Agreement, the parties agree that upon default or failure of Respondent to comply with the terms of this Agreement, EPA may refer this matter to the United States Attorney General for collection pursuant to Section 205(d) of the Act, 42 U.S.C. § 7524(d), commence an action to enforce this Agreement or to recover the civil penalty pursuant to Section 205 of the Act, or pursue any other remedies available to it. Respondent expressly waives its right to assert that such engines are certified or exempt from the certification requirements, or that such action is barred by 28 U.S.C. § 2462, other statutes of limitation, or other provisions limiting actions as a result of passage of time.
18. The parties represent that the individual or individuals executing this Agreement on behalf of Respondent are authorized to do so on behalf of Respondent and that such execution is intended and is sufficient to bind Respondent, its agents, assigns, or successors.
19. Respondent waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to the matters consented to herein.
20. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
21. This Settlement is contingent upon the truthfulness, accuracy and completeness of Respondent’s disclosures and representations to EPA under this Agreement, including but not limited to representations regarding importations contained in Attachment 1, and the prompt and complete remediation of any violations in accordance with this Agreement.

### **Stipulated Penalties**

22. For failure to comply with the terms of this Agreement on a timely basis, Respondent shall pay stipulated penalties to the United States as follows:

- a. For failure to pay the civil penalty or provide proof thereof, pursuant to Paragraphs 12 and 13, \$250.00 per day; and
  - b. For failure to export or destroy the Subject Engines or provide proof thereof, pursuant to Paragraph 11, \$250.00 per day.
23. All stipulated penalties under Paragraph 22 of this Agreement shall begin to accrue on the day after performance is due, and shall continue to accrue until the day compliance is achieved. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Agreement. All stipulated penalties shall be paid in accordance with Paragraph 13 and shall be paid within five (5) days of written demand by EPA. Stipulated penalties shall not be construed as prohibiting, altering, or in any way limiting the ability of EPA from seeking any other remedy or sanction available by virtue of Respondent's violation of this Agreement or of the statutes or regulations upon which the Agreement is based.

#### **Effect of Agreement**

24. Upon completion of the terms of this Agreement, the alleged violations described in this Agreement shall be deemed terminated and resolved. Nothing herein shall limit the right of EPA to proceed against Respondent in the event of default or noncompliance with this Agreement, for violations of Sections 203 or 213 of the Act, 42 U.S.C. §§ 7522 or 7547, 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. This Agreement in no way affects or relieves Respondent of responsibility to comply with other state, federal, or local laws or regulations.

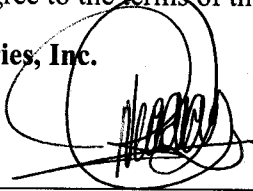
**U.S. Environmental Protection Agency**

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The following agree to the terms of this Agreement:

**Pramac Industries, Inc.**

By:  \_\_\_\_\_

Date: 10/24/07

Typed or Printed Name: RICARDO NAVARRO

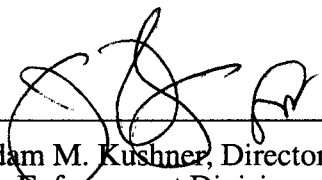
Typed or Printed Title: PRESIDENT



**U.S. Environmental Protection Agency**

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By:  \_\_\_\_\_

Adam M. Kushner, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency

Date: Oct 28, 2007

**Attachment 1**

*In the Matter of Pramac Industries, Inc.*

AED/MSEB # 7259

Subject Engines

Entry # AM5-4214321-1, June 18, 2007

<b>Generator Model Number</b>	<b>Manufacturer</b>	<b>Engine Model</b>	<b>Engine Date of Manufacture</b>	<b>Qty (#)</b>
GBL30D	Deutz	F4M2011	3/2007	12
GBL42D	Deutz	BF4M2001	3/2007	5
GSW65D	Deutz	BF4M2012G2	2/2007	7
GBW22P	Perkins Shibaura	HP33/1800	2007	3
GBW15P	Perkins Shibaura	HL22/1800	2007	1