

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

In the Matter of:	)	
Rolls-Royce Corporation	)	ADMINISTRATIVE
	)	SETTLEMENT AGREEMENT
	)	AED/MSEB-7857
Respondent.	)	

This Administrative Settlement Agreement (Agreement) is made and entered into by and between the United States Environmental Protection Agency (EPA) and Rolls-Royce Corporation and affiliated organizations (Rolls-Royce), 2001 South Tibbs Avenue, Speed Code U-26A, Indianapolis, IN 46241 (Rolls-Royce or Respondent).

**Purpose:**

1. The purpose of this Agreement is to resolve three alleged violations of sections 203(a) and 213(d) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a) and 7547(d), the compression-ignition (CI) marine engine regulations, 40 C.F.R. Part 94.

**Statutory Authority:**

2. Sections 203(a) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a) and 7547(d), prohibit a manufacturer of a new nonroad engine from distributing into commerce, selling, offering for sale, or introducing into commerce a new nonroad engine, unless the new nonroad engine (a) is covered by an EPA-issued certificate of conformity issued and in effect, and (b) bears the required EPA emissions information label.

**Regulatory Authority:**

3. 40 C.F.R. § 94.1 provides that the CI marine engine regulations in 40 C.F.R. Part 94 are applicable to CI marine engines that are manufactured (or otherwise become new) on or after January 1, 2004.
4. 40 C.F.R. § 94.2 provides the following definitions:

- a. "Category 1 engine" means a CI marine engine with a rated power above 37 kilowatts and a specific engine displacement of less than 5.0 liters per cylinder (l/cyl).
  - b. "Category 2 engine" means a CI marine engine with a specific engine displacement greater than or equal to 5.0 l/cyl but less than 30 l/cyl.
  - c. "Category 3 engine" means a CI marine engine with a specific engine displacement equal to or greater than 30 l/cyl.
  - d. "useful life" means the period during which an engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as hours of operation and years. It is the period during which a new engine is required to comply with all applicable emission standards.
5. 40 C.F.R. § 94.9 provides that the minimum useful life for Category 2 engines is 10 years or 20,000 hours of operation and for Category 3 engines the minimum useful life is 3 years or 10,000 hours of operation. The manufacturer shall specify a longer useful life if the engine is designed to remain in service longer than the applicable minimum useful life without being rebuilt.
6. 40 C.F.R. § 94.10 provides that the warranties imposed by 40 C.F.R. § 94.1107 for Category 1 or Category 2 engines shall apply for a period of operating hours equal to at least 50 percent of the useful life in operating hours or a period of years equal to at least 50 percent of the full useful life in years, whichever comes first. For Category 3 engines, the warranties shall apply for a period of operating hours equal to at least the full useful life in operating hours or a period of years equal to at least the full useful life in years, whichever comes first. However, the warranties shall apply for a period not less than any mechanical warranties provided by the manufacturer to the owner.

7. 40 C.F.R. § 94.212 requires the original engine manufacturer to affix, at the time of manufacture of a certified CI marine engine, a permanent and legible label that contains specified information.
8. 40 C.F.R. § 94.1103(a)(1)(i)(A) prohibits a manufacturer of a new engine subject to federal emission standards from selling, offering for sale, introducing into commerce, or delivering for introduction into commerce, a new marine engine unless such engine is covered by an effective EPA-issued certificate of conformity (EPA-COC).
9. 40 C.F.R. § 94.1103(a)(4)(i) prohibits a manufacturer of a new engine subject to federal emission standards from selling, offering for sale, introducing into commerce, or delivering for introduction into commerce, a new CI marine engine unless the manufacturer complies with the warranty provisions of 40 C.F.R. § 94.1107.
10. 40 C.F.R. § 94.1103(a)(4)(ii) prohibits a manufacturer of a new CI marine engine subject to federal emission standards from selling, offering for sale, introducing into commerce, or delivering for introduction into commerce, a new CI marine engine unless the manufacturer affixes the required labels or tags in accordance with 40 C.F.R. § 94.212.
11. 40 C.F.R. § 94.1107 requires the manufacturer of each engine to warrant to the ultimate purchaser and each subsequent purchaser or owner that the engine is designed, built, and equipped to comply with EPA emission standards and is free from defects in material and workmanship which cause such engine to fail to conform with applicable regulations for its warranty period.

**Alleged Violations:**

12. On or about April and May 2006, Respondent manufactured, imported, and introduced into commerce in the United States the three CI marine engines as described in the Table below (the subject engines). During the time of manufacture, importation, and introduction of the subject engines into commerce in the United States, the subject engines were not covered by an EPA-COC. As the manufacturer who imported and introduced into commerce in the United States the three uncertified subject engines,

Rolls-Royce committed three violations of sections 203(a) and 213(d) of the CAA and 40 C.F.R. Part 94.

**Table**

<b>Model</b>	<b>Engine Power Horsepower (HP)</b>	<b>Quantity</b>	<b>Importation Date</b>	<b>EPA-COC Effective Date</b>	<b>Engine Application</b>
B32:40 L6P	4020	2	May 2006	12\11\2006	Vessel Propulsion
KRG-5	1056	1	May 2006	12\11\2006	Auxiliary Generator

**Corrective Action:**

13. Rolls-Royce shall undertake the following corrective action:
  - a. With respect to the subject engines, Rolls-Royce shall comply with all the requirements of the CI marine engine regulations, 40 C.F.R. Part 94, except for the requirement to seek and obtain an EPA-COC to retroactively cover the subject engines. Rolls-Royce shall also affix to each subject engine a label that meets the requirements of 40 C.F.R. § 94.212, except the label shall not specify the EPA engine family as required by 40 C.F.R. § 94.212(b)(5) and, rather than making the unconditional statement required by 40 C.F.R. § 94.212(b)(6), the label shall state that “Pursuant to Administrative Settlement Agreement AED/MSEB-7857, this engine complies with the U.S. Environmental Protection Agency standards that apply to marine compression-ignition engines.”

**Civil Penalty:**

14. Respondent shall pay a civil penalty of \$75,000 to the United States of America no later than thirty days from the effective date of this Agreement. Late payment of the civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717, plus the stipulated penalties as specified in Paragraph 16 of this Agreement. Respondent agrees to pay the amount by certified check or cashier's check payable to the “United States of America,” and to mail the payment to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077

St. Louis, MO 63197-9000  
Attn: AED/MSEB -7857

Respondent may also pay online at [www.pay.gov](http://www.pay.gov). From the "Search Public Form" field, Respondent shall enter "SFO 1.1", click "EPA Miscellaneous Payments - Cincinnati Finance Center", and complete the SFO Form Number 1.1.

**Notice:**

15. A copy of the payment shall be faxed to Jocelyn Adair, Esq., at (202) 564-0069 no later than twenty-four (24) hours after mailing the payment. A copy of the payment and all correspondence to EPA concerning this Agreement shall be sent to:

**(Regular Mail)**

Jocelyn Adair, Esq.  
U.S. Environmental Protection Agency  
Mail Code 2242A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**(Courier Service)**

Jocelyn Adair, Esq.  
U.S. EPA  
Ariel Rios South, Room 1109A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20004

**Stipulated Penalties:**

16. 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 undertake the corrective action pursuant to paragraph 13 of this Agreement, \$32,500 per engine.
  - b. For failure to timely pay the civil penalty or provide proof thereof, pursuant to paragraphs 14 and 15 of this Agreement, \$500.00 per day.
17. All stipulated penalties under paragraph 16 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 simultaneous accrual of separate stipulated penalties for separate violations of this Agreement. All stipulated penalties shall be paid in the manner specified in paragraph 14 of this Agreement. In addition, a copy of the transmittal letter(s) and payment(s) shall be sent to Jocelyn Adair, Esq., at the address specified in paragraph 15. All stipulated penalties shall be paid to the United States of

America within five days of written demand by EPA (“the due date”). Late payment of the penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. 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.

**General Provisions:**

18. The effective date of this Agreement is the date that EPA executes the Agreement, at which time a copy will be returned to Respondent.
19. Respondent hereby represents that the individual executing this Agreement on behalf of Respondent is authorized to do so on behalf of Respondent and that such execution is intended and is sufficient to bind Respondent, Respondent’s agents, assigns, or successors.
20. 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(c) of the CAA, 42 U.S.C. § 7524(c), commence an action to enforce this Agreement or to recover the civil penalty pursuant to section 205 of the CAA, or pursue any other available remedies. Respondent expressly waives its right to assert that such action is barred by 28 U.S.C. § 2462, or other statutes of limitation. Respondent 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.
21. This settlement is contingent upon the truthfulness, accuracy and completeness of Respondent’s disclosure and representation to EPA, and the prompt and complete remediation of any violations in accordance with this Agreement.

22. By entering into this Agreement, Respondent does not admit that it has committed any violation of the Clean Air Act or its implementing regulations.

**Effect of Enforcement:**

23. 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, or 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 law or regulations, and does not address Respondent's potential liability to the U.S. Department of Homeland Security's Bureau of Customs and Border Protection for engines that are seized or detained now or in the future.

The following agree to the terms of this Agreement:

**Administrative Settlement Agreement - In the Matter of Rolls-Royce Corporation,  
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**Rolls-Royce Corporation**

By: William L. Malacrida

Date: 12/15/10

Printed Name: WILLIAM L. MALACRIDA

Printed Title: PRESIDENT, ROLLS-ROYCE COMMERCIAL MARINE, INC.

Federal Tax Identification Number: 522247832



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**U.S. Environmental Protection Agency**

By: *Matthew W. Zelenka* Date: 1/16/11

*for* Phillip A. Brooks  
Director  
Air Enforcement Division