

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

<b>In the Matter of:</b>	)	
	)	
<b>MECO Equipment Sales, Inc.</b>	)	<b>ADMINISTRATIVE SETTLEMENT</b>
<b>Miami, Florida</b>	)	<b>AGREEMENT</b>
<b>Respondent.</b>	)	<b>AED/MSEB: 7174</b>

**THIS ADMINISTRATIVE SETTLEMENT AGREEMENT** is made and entered into by and between the United States Environmental Protection Agency (EPA) and MECO Equipment Sales, Inc., 5825 NW 74<sup>th</sup> Avenue, Miami, Florida 33166 (MECO or Respondent).

**Purpose:**

The purpose of this Administrative Settlement Agreement (Agreement) is to resolve nine alleged violations of Section 213 of the Clean Air Act (CAA), 42 U.S.C. § 7547, and the implementing compression-ignition (CI) engines nonroad regulations at 40 C.F.R. Part 89.

**Definitions**

1. For the purposes of this Agreement, the following definitions apply:
  - (a) *Certified Engine* means a new or remanufactured CI nonroad engine built after the applicable date(s) of the Part 89 regulations and which is covered by a valid certificate of conformity issued by EPA.
  - (b) *Uncertified Engine* means a CI nonroad engine built after the applicable date(s) of the Part 89 regulations but which is not covered by a valid certificate of conformity issued by EPA.

**Regulatory Authority**

2. 40 C.F.R. § 89.1003(a)(1) prohibits manufacturers and any other person from importing into the United States any nonroad engine manufactured after the effective date of the regulations, unless such engine is covered by a currently valid certificate of conformity.
3. 40 C.F.R. § 89.1003(a)(4)(ii) prohibits the sale, introduction, or delivery into commerce by an engine manufacturer of a nonroad 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.

4. 40 C.F.R. § 89.2 defines an engine manufacturer as any person who, among other things, imports nonroad engines for resale, or who acts for and is under the control of any such person in connection with the distribution of such engines.
5. 40 C.F.R. § 89.110 requires the original engine manufacturer to affix, at the time of manufacture of a certified engine, a permanent and legible label identifying each nonroad engine. The label must state that the engine conforms to applicable EPA regulations. The label must be legible and readily visible to the average person after the engine is installed in the equipment.

**Alleged Violations:**

6. EPA alleges that Respondent imported into Miami, Florida the nine pieces of construction equipment that contained uncertified nonroad engines as described in the Table below. As the importer of uncertified nonroad engines, Respondent is liable for nine violations of Section 213 of the Clean Air Act (CAA), 42 U.S.C. § 7547, and the implementing compression-ignition (CI) engines nonroad regulations, 40 C.F.R. Part 89.

**Table 1**

Number	Engine Serial Number	Engine Manufacturer	Equipment Serial Number
1	1CK10927	Caterpillar	7EN00301
2	7JS00851	Caterpillar	7SN00533
3	25384	Komatsu	60899
4	7JK37453	Mitsubishi	3MR06376
5	7JK37690	Mitsubishi	3MR06441
6	7JK38678	Mitsubishi	3MR06683
7	7JK38904	Mitsubishi	3MR06750
8	7JK41207	Mitsubishi	3MR07428
9	7JK34943	Mitsubishi	4MR00733

7. The parties, desiring to settle and resolve this matter, in consideration of the mutual covenants and agreements contained herein, which consideration is acknowledged by the parties to be adequate, agree as set forth herein.

**Terms of Agreement**

8. Respondent has agreed to pay a civil penalty of \$36,200 under this Agreement. Accordingly, under this Agreement, within thirty days from the date of this Agreement

Respondent shall pay \$36,200 to the United States of America. 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 10 of the 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 payments to:

U.S. Environmental Protection Agency  
Washington Accounting Operations  
P.O. Box 360277M  
Pittsburgh, Pennsylvania 15251  
Attn: AED/MSEB- 7174

A copy of each check shall be sent to Jocelyn Adair at the address specified in Paragraph 9 of this Agreement.

9. All correspondence to EPA concerning this Agreement shall be sent to:

Jocelyn Adair  
U.S. EPA/MSEB  
Mail Code 2242A  
1200 Pennsylvania Avenue, N.W., Room 1109A  
Washington, DC 20460

**Stipulated Penalties:**

10. Time is of the essence to this Agreement. Upon the failure to comply or timely perform pursuant to Paragraphs 8 and 9 of this Agreement, Respondent agrees to the following stipulated penalty:
- (a) For the failure to timely pay the civil penalty, or provide proof of such payment, pursuant to Paragraphs 8 and 9 of this Agreement, Respondent shall pay a stipulated penalty of \$250 per day.
11. All stipulated penalties shall be paid in the manner specified in Paragraph 8 of this Agreement. In addition, a copy of the transmittal letter(s) and check(s) shall be sent to Jocelyn Adair at the address specified in Paragraph 9 of this Agreement.
12. Respondent further agrees 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.

13. This Agreement becomes effective upon the date executed by EPA, at which time a copy will be returned to Respondent.
14. Respondent hereby represents that the individual or individuals executing this Agreement on behalf of Respondent are authorized to do so and that such execution is intended and is sufficient to bind Respondent.
15. 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.
16. The terms of this Agreement are contractual and not a mere recital. If any provision or provisions of this Agreement are held to be invalid, illegal or unenforceable, the remaining provisions shall not in any way be affected or impaired thereby.
17. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
18. The effect of settlement described in Paragraph 19 of this Agreement is conditional upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA.
19. Upon completion of the terms of this Agreement, this civil matter 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 Section 203 of the Clean Air Act, 42 U.S.C. § 7522, which are not the subject matter of 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.

The following agree to the terms of this Agreement:

MECO Equipment Sales, Inc.

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

Date: 1/25/07

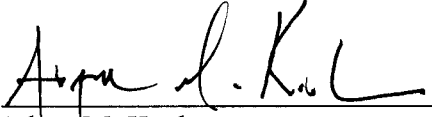
Signature: \_\_\_\_\_

Print Name: GERARDO A. VAZQUEZ, ESQ

Print Title: ATTORNEY IN FACT

**Administrative Settlement Agreement – In the Matter of MECO Equipment Sales, Inc.**  
**AED/MSEB – 7174**

U.S. Environmental Protection Agency

By:   
Adam M. Kushner  
Director  
Air Enforcement Division

Date: 