

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

In the Matter of: \_\_\_\_\_ )  
GE Jenbacher GmbH & Co OHG )  
Respondent. \_\_\_\_\_ )

ADMINISTRATIVE  
SETTLEMENT AGREEMENT  
AED/MSEB-7291

This Administrative Settlement Agreement is made and entered into by and between the United States Environmental Protection Agency (EPA) and GE Jenbacher GmbH & Co OHG, an Austrian general partnership, on its behalf and on behalf of Jenbacher, Ltd., a wholly-owned subsidiary of GE Jenbacher GmbH & Co OHG (collectively, GE Jenbacher), 5244 North Sam Houston Parkway East, Houston, Texas 77032 (Respondent).

**Purpose:**

1. The purpose of this Administrative Settlement Agreement (Agreement) is to resolve ten alleged violations of Section 111(b) of the Clean Air Act (CAA), 42 U.S.C. § 7411(b), and the implementing stationary spark-ignition (SI) internal combustion engine (ICE) regulations, 40 C.F.R. Part 60, Subpart JJJJ (Stationary SI ICE Regulations).

**Statutory Authority:**

2. Section 111(b) of the CAA, 42 U.S.C. § 7411(b), requires EPA to identify categories of stationary sources of air pollution and to establish new performance standards for such sources that cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare.
3. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), prohibits any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

**Regulatory Authority - Stationary SI ICE Regulations:**

4. 40 C.F.R. Part 60, Subpart JJJJ, establish emission standards for certain stationary SI ICEs based upon engine type (emergency or non-emergency), fuel type, power, and manufacture date.
5. 40 C.F.R. § 60.4242 provides that manufacturers of stationary engines with a maximum engine power greater than 25 horsepower that are not certified to standards and other requirements under 40 C.F.R. Part 1048 are subject to the labeling provisions of 40 C.F.R. § 1048.20 pertaining to excluded stationary engines.
6. 40 C.F.R. § 1048.1(c) provides that the definition of nonroad engines in 40 C.F.R. § 1068.30 excludes certain engines used in stationary applications. These engines may be required by 40 C.F.R. Part 60, Subpart JJJJ, to comply with some of the provisions of this Part 1048; otherwise, these engines are only required to comply with the requirements in 40 C.F.R. § 1048.20.
7. 40 C.F.R. § 1048.20(a) provides that the manufacturer must affix a permanent label to each new engine that it produces or imports that is excluded under § 1048.1(c) as a stationary engine and is not required by 40 C.F.R. Part 60, Subpart JJJJ, to meet the standards and other requirements of Part 1048 that are equivalent to the requirements applicable to nonroad SI engines for the same model year.
8. 40 C.F.R. § 1048.20(b) requires the label to, among other things, state: “THIS ENGINE IS EXCLUDED FROM THE REQUIREMENTS OF 40 CFR PART 1048 AS A ‘STATIONARY ENGINE’ AND THE OWNER/OPERATOR MUST COMPLY WITH THE REQUIREMENTS OF 40 CFR PART 60. INSTALLING OR USING THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.”
9. 40 C.F.R. §§ 60.4248 and 1048.801 define a manufacturer as any person who manufactures a stationary engine for sale in the United States or otherwise introduces a

new stationary engine into commerce in the United States. This includes importers who import stationary engines for sale or resale.

**Definitions:**

10. For the purposes of this Agreement, the following definitions apply:
  - a. *This matter:* Respondent's importation of the ten stationary SI ICEs as described in Appendix 1 to this Agreement and any civil liability that may apply to such violations.

**Alleged Violations:**

11. On or about March and April 2008, Respondent imported into the United States, at ports located in Chicago, Boston, Los Angeles, and Newark, the ten stationary SI ICEs, as described in Appendix 1 of this Agreement (subject engines).
12. The U.S. Customs and Border Protection (U.S. Customs) examined the subject engines and determined that the subject engines did not bear the required label specified at 40 C.F.R. § 1048.20 (stationary label).
13. As the manufacturer/importer of the subject engines, Respondent committed ten separate violations of Section 111(b) of the CAA, 42 U.S.C. § 7411(b), and the Stationary SI ICE Regulations, 40 C.F.R. Part 60, Subpart JJJJ.

**Injunctive Relief/Corrective Action:**

14. No later than thirty days from the effective date of this Agreement, or such longer period of time if required by U.S. Customs, Respondent shall:
  - a. Affix a complying stationary label to each subject engine,
  - b. Provide to EPA a technical description of the method and procedures that the manufacturer shall use to affix the stationary label to the subject engines to ensure that the label is permanently affixed and cannot be removed without destroying or defacing the label; and,

- c. Establish and fully document a chain of custody for the stationary labels from the time of production until the time of installation on the subject engines, and destruction of any unused labels.
15. No later than thirty (30) days from the effective date of this Agreement (or such longer period of time if requested by Respondent and approved by EPA for good cause shown), Respondent shall provide to EPA with a written report that fully describes the corrective action taken, and certifies that the corrective action was conducted as described. The report must include the following:
- (a) An affidavit from Respondent. The affidavit shall certify the date, time, and place of the corrective action work, identify each person doing the work, identify the serial number of each subject engine that was labeled, and provide a clear readable picture of the label affixed to each subject engine.

**Civil Penalty:**

16. Respondent has agreed to pay a civil penalty of \$30,000 to the United States of America. The payment shall be due no later than thirty (30) 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 22 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(s) to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000  
Attn: AED/MSEB -7291

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

**Notice:**

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

**(Regular Mail)**

Jocelyn L. Adair, Esq.  
U.S. Environmental Protection Agency  
Mail Code 2242A  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
Attn: AED/MSEB-7291

**(Courier Service)**

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

**General Provisions:**

18. The effective date of this Agreement is the date that EPA executes the Agreement and provides a copy of the executed Agreement 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 provisions of this Agreement, upon Respondent's default or failure to comply with any terms of this Agreement, EPA may refer this matter to the United States Department of Justice to recover civil penalties pursuant to Section 205 of the Act, 42 U.S.C. § 7524, and pursue any other remedies available to it. Respondent specifically agrees that in the event of such default or failure to comply, EPA may proceed in an action based on the original claim of violation of the Act and 40 C.F.R. Part 60 or 1048. Respondent expressly waives Respondent's right to assert that such action is barred by any applicable statutes of limitation, *e.g.* 28 U.S.C. § 2462.
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.

**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 timely label the subject engines or provide proof thereof, pursuant to Paragraphs 14, 15, and 17 of this Agreement, \$250 per day; and,
  - b. For failure to timely pay the civil penalty or provide proof thereof, pursuant to Paragraphs 16 and 17 of this Agreement, \$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 simultaneous accrual of separate stipulated penalties for separate violations of this Agreement. All stipulated penalties shall be paid in the manner specified in Paragraph 16 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 17 of this Agreement. 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.

**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, 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 laws or regulations. In addition, this Agreement does not address Respondent's potential liability to U.S. Customs for engines that are seized or detained.

The following parties agree to the terms of this Agreement:

**Administrative Settlement Agreement - In the Matter of GE Jenbacher GmbH & Co OHG,  
AED/MSEB-7291**

**GE Jenbacher GmbH & Co OHG**

By: Prady Uyyamb

Date: 30.05.2008

Printed Name: PRADY UYYAMBI

Printed Title: CEO

**Administrative Settlement Agreement - *In the Matter of GE Jenbacher GmbH & Co OHG;*  
AED/MSEB-7191**

**U.S. Environmental Protection Agency**

By:   
Adam M. Kushner, Director  
Air Enforcement Division

Date: JUNE 23, 2008

APPENDIX 1 for AED/IMSEB-7291: GE Jenbacher Spark-Ignition Internal Combustion Engines

Entry Number	Container Number	Engine Manufacturer and Model	Engine Serial Numbers	Horsepower	Application and Fuel	Location of Use	Owner/Operator
Chicago 201-8869139-7	HLXU 5632429	GE Jenbacher	5606161	1400	Landfill Gas power generation	Danbury, IL	US Energy / GE Jenbacher
Chicago 201-8869139-7	HLXU 5632429	GE Jenbacher	5618641	1400	Landfill Gas power generation	Dixon, IL	US Energy / GE Jenbacher
Chicago 201-8869140-5		GE Jenbacher	5606701	1400	Landfill Gas power generation	Streator, IL	US Energy / GE Jenbacher
Chicago 201-8869150-4		7 GE Jenbacher	5606681	1400	Landfill Gas power generation	Dixon, IL	US Energy / GE Jenbacher
Chicago 201-8869151-2		5 GE Jenbacher	5606691	1400	Landfill Gas power generation	Edwardsville, IL	US Energy / GE Jenbacher
Boston	HLXU 4670960	GE Jenbacher	5621441	2300	Natural Gas, power generation	Wellesley, MA	Wellesley College
Los Angeles 201-8869161-1	VAEU 403309-9	GE Jenbacher	5336891	800	pumping	Perris, CA	Eastern Municipal Water District
Los Angeles 201-8869161-1	VAEU 403309-9	GE Jenbacher	4976811	800	pumping	Perris, CA	Eastern Municipal Water District
Newark 656-0625778-3		7 GE Jenbacher	5565951	1400	Landfill Gas power generation	London Grove Township, PA	Eastern Municipal Water District
Los Angeles 656-0625646-2	JENC 294461-1	GE Jenbacher	5507041	468	Natural Gas, power generation	Long Beach, CA	Chester County Refuse Authority Johnson Controls