

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

**ADMINISTRATIVE SETTLEMENT AGREEMENT**

<b>In the Matter of:</b>	)	
	)	
<b>Pramac Industries, Inc.</b>	)	<b>AED/MSEB # 7215</b>
	)	
<b>Respondent</b>	)	

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 116<sup>th</sup> Way, Suite 10, Medley, FL 33178 (Respondent or Pramac) regarding compliance by Respondent with the requirements of the Clean Air Act (Act) and the regulations promulgated thereunder at 40 C.F.R. Parts 89 and 90.

**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. Parts 89 and 90 (Nonroad Regulations), arising out of the importation of 1,412 spark ignition (SI) and compression ignition (CI) nonroad engines and equipment containing those engines (subject engines), as described in Table 1 and attached hereto.

**Definitions:**

2. For the purposes of this Agreement, the following definitions apply:
  - a. *Certified engine:* A “certified engine” is a nonroad engine that was built after the applicable effective dates of the regulations at Parts 89 and 90 and that is covered by a Certificate of Conformity.
  - b. *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. Likewise, 40 C.F.R. Part 90 is applicable to nonroad spark-ignition engines built after the applicability dates in 40 C.F.R. Part 90.
- c. *Uncertified engine*: An “uncertified engine” is a nonroad engine built after the applicable effective date of the regulations but which is not covered by a Certificate of Conformity issued by the EPA.
  - d. *This matter*: As used in this Agreement, “this matter” means the Respondent’s importation of the subject engines identified in Table 1 and any civil liability that may apply to violations of the Clean Air Act and implementing regulations at 40 C.F.R. Parts 89 and 90.
  - e. *Certificate of Conformity*: A “Certificate of Conformity” means the document issued by EPA to a manufacturer under 40 C.F.R. §89.105 or 40 C.F.R. §90.106, 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. Parts 89 and 90 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.
  - f. *Export*: The term “export” means to transport to a location outside of the United States and its territories, including Canada and Mexico.
  - g. *Destroy*: As used in this Agreement, “destroy” means the complete destruction of the engine and the complete disassembly of the generator. The engine shall be crushed or broken in such a manner that the engine or its parts can never be used to power anything, and the generator shall be disassembled and broken down in such a manner that it can never be reassembled.

**Statutory Authority:**

3. Sections 203(a) and 213(d) of the Clean Air Act, 42 U.S.C. §§ 7542(a) and 7547(d), prohibit the sale, offering for sale, introduction, or delivery for introduction into commerce, or the importation of any nonroad vehicle or engine, including engines contained in nonroad equipment or nonroad vehicles, after the applicable effective date of the regulations unless such vehicle or engine is covered by a Certificate of Conformity issued and in effect.

**Nonroad SI Engine Regulatory Authority**

4. 40 C.F.R. §§ 89.1003(a)(1)(ii) and 90.1003(a)(1)(ii) respectively prohibit the following acts and the causation thereof: “The importation into the United States [of] any nonroad [CI or SI] engine manufactured after the applicable effective date under this part unless such engine is covered by a certificate of conformity...”
5. 40 C.F.R. §§ 89.2 and 90.3 respectively define an engine manufacturer as any person engaged in the manufacturing or assembling of new nonroad [CI or SI] engines or importing such engines for resale, or a person acting for, and under the control of, such person.
6. 40 C.F.R. §§ 89.1003(a)(4)(ii) and 90.1003(a)(4)(ii) respectively prohibit the sale, introduction, or delivery into commerce by an engine manufacturer of a nonroad [CI or SI] 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. § 90.114.
7. 40 C.F.R. §§ 89.110 and 90.114 respectively require the original engine manufacturer to affix, at the time of manufacture of a certified nonroad [CI or SI] engine, a permanent and legible label identifying each nonroad engine. 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 90.114 and must be attached in such a manner that it cannot be removed without destroying or defacing the label.

## Background

8. On or about March 28, 2006, and May 28, 2006, Respondent imported into the United States at the Port of Miami, FL, 3 entries containing 1,412 CI and SI nonroad engines and the equipment containing the subject engines listed in Table 1.
9. At the time of importation Respondent submitted to Customs the EPA Importation of Nonroad Engines and Equipment Declaration Form, declaring that the subject engines were being temporarily imported "for export only."
10. Upon examination, Customs determined that neither the subject engines nor the outside of their containers were labeled or tagged "solely for export" as is required in order to qualify for the export exemption pursuant to 40 C.F.R. §§ 89.909(a) and 90.909(a).
11. EPA has determined that Respondent is the importer of the subject engines and that the subject engines were neither certified nor qualified for the export exemption as provided under 40 C.F.R. §§ 89.909(a) and 90.909(a) respectively because the subject engines, consisting of both CI and SI engines, were not certified and neither the subject engines nor the containers were properly labeled "for export only."

## Terms of Agreement

12. 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.
13. Respondent shall pay to the United States a civil penalty of forty-eight thousand (\$48,000.00) dollars (EPA penalty) in satisfaction of the violations described herein, provided Respondent successfully competes the terms of this Agreement.
14. Respondent agrees to pay the \$48,000 EPA penalty to the United States of America within thirty (30) calendar days of the effective date of this Agreement (penalty due date). Late payment of the civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. 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  
Washington Accounting Operations  
P.O. Box 360277M  
Pittsburgh, Pennsylvania 15251  
ATTN: AED/MSEB # 7215

Simultaneously, a photocopy of the check shall be faxed to (202) 564-0069 to the attention of Jacqueline Robles Werner. Such check shall be identified with the case number and Respondent's name.

15. Within thirty (30) days from the date that Customs releases the subject engines, or from the effective date of this Agreement if Customs has released subject engines prior to the effective date of this Agreement, whichever is applicable, Respondent shall export or destroy the subject engines. This exportation or destruction shall be carried out under the supervision of Customs. 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 Customs. Such certification and supporting documents will be submitted, via overnight or courier service, to EPA at the following address:

Jacqueline Robles Werner  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Ariel Rios South Building  
Mail Code 2242(a)  
Room # 1111C  
Washington, D.C. 20004  
Tel: (202) 564-1036

#### **General Provisions**

16. 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.

17. 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.
18. The 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.
19. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
20. 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 Table 1, and the prompt and complete remediation of any violations in accordance with this Agreement.

**Stipulated Penalties:**

21. 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 pay the penalty, or provide proof of such payment, pursuant to Paragraph 14, \$250.00 per day.
  - b. For failure to timely export or destroy the subject engines, or provide proof of such exportation or destruction, pursuant to Paragraph 15, \$250.00 per day, per subject engine.
22. All stipulated penalties under Paragraph 21 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 14 and shall be paid within five 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**

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; for violations of Section 203 or 213 of the Act, 42 U.S.C. §§ 7522 or 7547, 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 laws or regulations.

The following agree to the terms of this Agreement:

**Pramac Industries, Inc.**

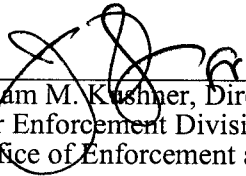
By: \_\_\_\_\_

Typed or Printed Name: Ricardo Navarro Ropero  
Typed or Printed Title: President

Date: \_\_\_\_\_

04/13/07

U.S. Environmental Protection Agency  
Settlement Agreement In the Matter of Pramac Industries, Inc.  
AED/MSEB #7215

By:  \_\_\_\_\_  
Adam M. Kushner, Director  
Air Enforcement Division  
Office of Enforcement and Compliance Assurance

Date: 8.27.07



**Table 1**

*In the Matter of Pramac Industries, Inc.*  
AED/MSEB# 7215

Uncertified and Unlabeled Engines

<b>Entry Date</b>	<b>Entry Number</b>	<b>Engine Model Number or Generator Model</b>	<b>CI or SI</b>	<b>Quantity</b>	<b>Manufacturer</b>
3/28/2006	AM5-4212-958-1	Lifter LD100-PJ562MXA000	CI	200	Jiangsu Changfa
3/28/2006	AM5-4212-958-1	Lifter LD70-PJ362MXH000	SI	284	Jiangsu Changfa
3/28/2006	AM5-4213-009-2	Lifter LG390-PJ492MX1000	SI	162	SUMEC Machinery & Electric Co. Ltd.
3/28/2006	AM5-4213-009-2	Lifter LG160-PJ282MX1000	SI	227	SUMEC Machinery & Electric Co. Ltd.
3/28/2006	AM5-4213-009-2	Lifter LG390-PJ622MX1000	SI	197	SUMEC Machinery & Electric Co. Ltd.
3/28/2006	AM5-4213-009-2	Lifter LD100-PJ562MXA000	CI	28	Jiangsu Changfa
3/28/2006	AM5-4213-009-2	Lifter LD100-PJ562MXH000	CI	153	Jiangsu Changfa
5/28/2006	AM5-4213-213-0	GX 390 PX752MH1000	CI	25	Jiangsu Changfa
5/28/2006	AM5-4213-213-0	Lifter LD100-PJ562MXA000	CI	76	Jiangsu Changfa
5/28/2006	AM5-4213-213-0	Lifter LD100-PJ562MXH000	CI	60	Jiangsu Changfa