

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

In the Matter of:)	ADMINISTRATIVE SETTLEMENT
)	AGREEMENT
Cobra Scooters, LLC)	AED/MSEB: 7064
Sugar Land, TX)	
Respondent.)	

THIS ADMINISTRATIVE SETTLEMENT AGREEMENT is made and entered into by and between the United States Environmental Protection Agency (EPA) and Cobra Scooters, LLC, 11220 Highway 6 South, A2, Sugar Land, TX 77478 (Respondent).

Purpose:

The purpose of the Settlement Agreement (Agreement) is to resolve alleged violations of Section 203 and 213 of the Clean Air Act (CAA), 42 U.S.C. § 7522 and § 7547, and the Large Spark Ignition (SI) Nonroad Regulations, 40 C.F.R. Part 1048.

Applicable Large SI Nonroad Regulatory Provisions:

1. 40 C.F.R. § 1048.10, prohibits any person from importing into the United States a new large SI nonroad engine, unless such engine is covered by a certificate of conformity (EPA-issued certificate of conformity).
2. 40 C.F.R. § 1048.120 requires the manufacturer of each new nonroad engine to warrant to the ultimate purchaser and each subsequent purchaser that the engine is designed, built, and equipped to comply with the federal emissions standards, and is free of any material defects which would cause the engine to fail to comply with the federal emissions standards during its useful life (EPA emissions warranty).
3. 40 C.F.R. § 1048.135 requires the engine manufacturer to affix, at the time of manufacture of a certified engine, a permanent and legible label identifying each nonroad engine. The label, among other things, must be legible and readily visible to the average person after the engine is installed in the equipment (EPA emissions label).
4. 40 C.F.R. § 1048.801 defines a 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.

Other Definitions:

5. For purposes of this Agreement the term export means to transport to a location outside of the United States and its territories, Canada, and Mexico.

6. For purposes of this Agreement the term destroy means the complete destruction of the engine. The engine shall be crushed or broken in such a manner that the engine or its parts can never be used to power anything.

Alleged Violations:

7. EPA alleges that in April 2004, Respondent imported into the United States fourteen nonroad engines as described in the Table (subject nonroad engines). The subject nonroad engines were not covered by an EPA-issued certificate of conformity and did not bear an EPA emissions label. EPA further alleges that each of the subject nonroad engines had a displacement less than 1000 cc, a maximum brake power greater than 30 kW, and a maximum speed of 25 mph, and, as a consequence, was required to be covered by an EPA-issued certificate of conformity.

Table

Port Code	Entry Date	Customs Entry Numbers	Manufacturer	Model Numbers	Max. Power	Quantity
5301	4/2004	JN7-0332216-2	SGMW Wuling	LZW1010PLNEil	43 HP	3
		JN7-0332356-6	SGMW Wuling	LZW1010PLNEil	43 HP	3
		JN7-0332350-9	SGMW Wuling	LZW1010PLNEil	43 HP	8

8. Based on the forgoing, EPA alleges that Respondent committed fourteen separate violations of Section 213 of the CAA, 42 U.S.C. § 7547, and the Large SI Nonroad Regulations.

Terms of Agreement:

9. EPA has determined to reduce the civil penalty for the 14 violations alleged in Paragraph 8 of this Agreement to \$7,832, provided Respondent successfully completes the terms of this Agreement. Respondent shall pay \$7,832 to the United States of America within thirty days from the date that this Agreement is executed by EPA (the 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-

A copy of the check shall be sent to Jocelyn Adair at the address specified in Paragraph 11 of this Agreement.

10. Within thirty days of this Agreement, or such longer period of time if required by the United States Customs and Border Protection (Customs), Respondent shall export or destroy the subject nonroad engines. This exportation or destruction shall be carried out under the supervision of Customs. Respondent shall certify to EPA and provide supporting documents that the subject nonroad engines were either exported or destroyed.
11. All correspondence to EPA concerning this Agreement shall be sent to:

Jocelyn Adair
Mail Code 2242A
Room 1109A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
12. Within sixty days of this Agreement, Respondent shall provide to EPA a plan that it will implement to ensure that all large SI nonroad engines imported into the United States after the date of this Agreement comply with the Large SI Nonroad Regulations.
13. Upon execution of this Agreement by EPA, EPA agrees to recommend that Customs release the subject nonroad engines so that they may be exported or destroyed in accordance with Paragraph 10 of this Agreement.

Stipulated Penalties:

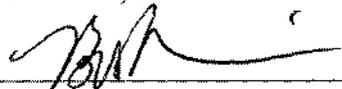
14. Time is of the essence to this Agreement. Upon the failure to comply or timely perform pursuant to Paragraphs 9 or 10 of this Agreement, Respondent agrees to the following stipulated penalties:
 - (a) For the failure to timely pay the civil penalty, or provide proof of such payment, pursuant to Paragraph 9 of this Agreement, Respondent shall pay a stipulated penalty of \$200 per day. However, if after sixty days of this Agreement, Respondent has failed to pay the civil penalty, Respondent shall be in default of this Agreement. Upon such default, Respondent shall pay a stipulated penalty of \$7,000 per subject nonroad engine.
 - (b) For the failure to export or destroy the subject nonroad engines as required by Paragraph 10 of this Agreement, Respondent shall pay for each nonroad engine a stipulated penalty of \$7,000.
15. All stipulated penalties shall be paid in the manner specified in Paragraph 9 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 11 of this Agreement.
16. 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.

17. This Agreement becomes effective upon the date executed by EPA, at which time a copy will be returned to Respondent.
18. 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.
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 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.
21. The validity, enforceability, and construction of all matters pertaining to this Agreement shall be determined in accordance with applicable federal law.
22. The effect of settlement described in Paragraph 23 of this Agreement is conditional upon the truthfulness, accuracy and completeness of Respondent's disclosures and representations to EPA as memorialized in its letters to EPA dated June 25th, September 7th, and September 22, 2004.
23. 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 § 213 of the Clean Air Act, 42 U.S.C. § 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 law or regulations.

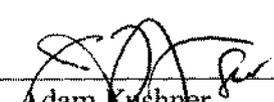
The following agree to the terms of this Agreement:

Cobra Scooters, LLC

By:  _____

Date: 1/13/05

U.S. Environmental Protection Agency

By:  _____
Adam Kushner
Acting Director

Date: 1/25/05

Air Enforcement Division