

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

ADMINISTRATIVE SETTLEMENT AGREEMENT

In the Matter of:

Broadcrown, Inc.

Respondent

)
)
) MSEB AED # 7216
)
)
)

This Administrative Settlement Agreement is made and entered into by and between the United States Environmental Protection Agency (EPA), and Broadcrown, Inc. (Respondent), most recently of 11701 NW 102nd Road, Suite 12, Medley, FL 33178, regarding compliance by Respondent with the requirements of section 203 and 213 of the Clean Air Act (Act), 42 U.S.C. §§ 7522 and 7547, and the regulations promulgated thereunder at 40 C.F.R. Parts 89.

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. Part 89 arising out of the importation, on or about September 16 and September 18, 2006, of forty three generators containing nonroad engines described in Attachment I, and to ensure that future violations are avoided.

Definitions:

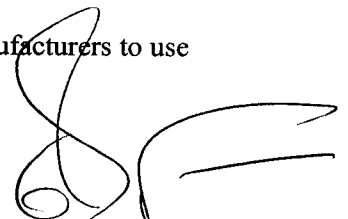
2. For the purposes of this Agreement, the following definitions apply:
 - a. *Certified engine:* A “certified engine” is a nonroad engine that was built after the applicable effective dates of the regulations at Parts 89 and that is covered by a Certificate of Conformity.
 - b. *Dates of the Applicable Regulations:* The term “dates of the applicable regulations” for a nonroad compression ignition engine means the date after which the certification requirement applies to the engine, as defined in Table 2 of 40 C.F.R. § 89.112.



- 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.
- d. *This matter:* As used in this Agreement, “this matter” means the Respondent’s importation of the Subject Engines identified in Attachment I and any civil liability that may apply to violations of the Clean Air Act and implementing regulations at 40 C.F.R. Part 89.
- e. *Certificate of Conformity:* A “Certificate of Conformity” means the document issued by EPA to a manufacturer under 40 C.F.R. § 89.105, for compression ignition engines, after EPA has determined that the manufacturer’s application is complete and that the engine family meets the requirements of 40 C.F.R. Parts 89 and the Clean Air Act. Issuance of the Certificate of Conformity permits production of engines built in accordance with the manufacturer’s application provided that the production is within the period during which the Certificate of Conformity is valid.
- f. *Subject engines:* The term “Subject Engines” means the engines contained in the equipment listed in Attachment I.

Statutory and Regulatory 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 after the applicable effective date of the regulations unless such vehicle or engine is certified.
- 4. 40 C.F.R. § 89.1003(a)(6) prohibits any person from introducing into the commerce of the United States any new nonroad piece of equipment containing a compression ignition engine manufactured after the applicable effective date of the regulations unless such engine is a certified engine.
- 5. 40 C.F.R. § 89.1003(b)(4) requires nonroad vehicle and equipment manufacturers to use

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a horizontal line and a small flourish.

- certified compression ignition engines in vehicles and equipment manufactured after the effective date unless the manufacturer can prove they will be used as stationary engines.
6. 40 C.F.R. §§ 1039.20 require that engines which will be used as stationary engines be labeled by the manufacturer in the manner specified in that section.
 7. 40 C.F.R. § 89.2 defines a nonroad vehicle or equipment manufacturer as any person engaged in the manufacturing or assembling of new nonroad vehicles or equipment, or importing such vehicles or equipment for resale, or a person acting for, and under the control of such person.
 8. 40 C.F.R. § 89.110 requires the original engine manufacturer to affix, at the time of manufacture of a certified compression ignition engine, a permanent and legible label which identifies the nonroad engine and provides the information specified in that section, including a statement that the engine is a certified engine. The label must be legible and readily visible to the average person after the engine is installed in the equipment.
 9. 40 C.F.R. § 89.1003(a)(4)(ii) prohibits an manufacturer from introducing into commerce engines which are not labelled in accordance with 40 C.F.R. § 89.110.

Background

10. On or about September 16, and September 18, 2006, Respondent imported the nonroad equipment listed in Attachments
11. As the importer, Respondent is the manufacturer of the nonroad equipment containing the Subject Engines.
12. The Subject Engines and nonroad equipment were manufactured after the Dates of the Applicable Regulations. As a consequence, appropriately certified and/or labeled engines were required to be used in the nonroad equipment.
13. The Subject Engines listed in Tables 1 and 3 of Attachment I are not certified under the provisions of 40 C.F.R. §§ 89.1003(a)(6).
14. The Subject Engines listed in Table 2 of Attachment I are not certified engines, and do not have affixed the certification provided for by 40 C.F.R. §§ 89.110 .

Terms of Agreement

15. Within 30 days of the date of this Agreement, or within 15 days of the date CPB releases the Subject Engines for export, whichever is later, Respondent shall submit proof that each of the Subject Engines has been exported to a location outside North America and islands including the Caribbean islands.
16. All submissions to EPA shall be sent to the following address:

David Alexander
U.S. EPA, OECA/AED (mailcode 2242A)
1200 Pennsylvania Ave NW (Rm. 1111A)
Washington, DC 20460-0001
Facsimile: (202) 564-0069

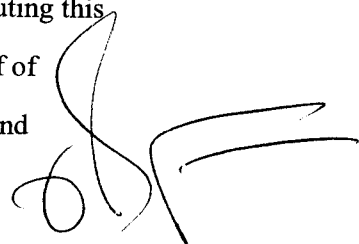
17. Respondent shall pay to the United States a civil penalty of seventy thousand seven hundred dollars (\$70,700) within 30 calendar days of the effective date of this Agreement. Late payment of the civil penalty is subject to interest and fees as specified in 31 U.S.C. § 3717. Respondent agrees to pay the civil penalty 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 # 7216

Simultaneously, a photocopy of the check shall be mailed to EPA at the address specified in Paragraph 16 or faxed to (202) 564-0069 to the attention of David Alexander. Such check shall be identified with the case number and Respondent's name.

General Provisions

18. The effective date of this Agreement is the date that EPA executes the Agreement.
19. Respondent hereby represents 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

A handwritten signature in black ink, appearing to be a stylized 'D' or 'S' followed by a horizontal line, located at the bottom right of the page.

Respondent, its agents, assigns, or successors.

20. Notwithstanding any other provision of this agreement, upon Respondent's failure to perform, or default of 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 Part 89. Respondent expressly waives its right to assert that such action is barred by any applicable statute of limitation, *see* 28 U.S.C. § 2462.
21. The Effect of Settlement described in Paragraph 24 of this Agreement is conditioned 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 Attachment I, 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 pay the penalty, or provide proof of such payment, pursuant to Paragraph 17, \$400 per day.
 - b. For failure to timely export the Subject Engines, or provide proof of such exportation, pursuant to Paragraph 15, \$500 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 the simultaneous accrual of separate stipulated penalties for separate violations of this Agreement. All stipulated penalties shall be paid in accordance with Paragraph 22 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

24. Upon completion of the terms of this Agreement, the alleged violations described in this Agreement shall be considered resolved.

The following agree to the terms of this Agreement:

Broadcrown, Inc.

D. BORGMAN.

By: 

7th MARCH '07

Date

Title: VICE PRESIDENT

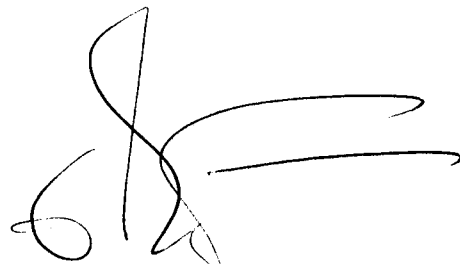
U.S. Environmental Protection Agency
In the Matter of Broadcrown Power U.S.A., Inc.
AED/MSEB # 7216

By:  _____

3.16.07

Adam M. Kushner,
Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance

Date



ATTACHMENT I: Table 1 Administrative Settlement Agreement MSEB AED #7126
 Attachment 86

Entry # G43-0069081-0

Entry Date: Sept. 18

Engine Manufacturer	Date of Manufacture	Generator Model	Generator Model #	Engine Model #	Engine Serial #
John Deere (JD)				John Deere	
), Torreon, Mexico	17-May-06	PowerTech 3.0 L	BCJD50SSPSA	5030TF270	PE5030T090943
), Saran, France	24-Jul-06	PowerTech 6.8 L	BCJD200S	6068HF258	CD6068C015131
), Saran, France	1-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158.	CD3029C013583
), Saran, France	2-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158.	CD3029C013587
), Saran, France	1-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158.	CD3029C013588
), Saran, France	2-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158.	CD3029C013589
), Saran, France	2-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158.	CD3029C013600
), Waterloo, Iowa	11-Feb-05	PowerTech 8.1 L	BCJD300SSA	6081HF070	RG6081H285251*
), Saran, France	1-Jun-06	PowerTech 2.9 L	BCJD44S	3029TF158.	CD3029C013586
), Saran, France	1-Jun-06	PowerTech 2.9 L	BCJD44S	3029TF158.	CD3029C013584
), Saran, France	1-Jun-06	PowerTech 2.9 L	BCJD44S	3029TF158.	CD3029C013585

TTACHMENT I: Table 2 Adminstrative Settlement Agreement MSEB AED #7126
 hipment 87

Entry # G430069082-8

Entry Date: Sept. 18

Engine Manufacturer	Date of Manufacture	Generator Model	Generator Model #	Engine Model #	Engine Serial #
Deutz -Germany	24-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302019
Deutz -Germany	22-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302020
Deutz -Germany	22-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302021
Deutz -Germany	21-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302023
Deutz -Germany	22-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302024
Deutz -Germany	24-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302025
Deutz -Germany	27-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302026
Deutz -Germany	26-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302027
Deutz -Germany	25-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302028
Deutz -Germany	24-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302029
Deutz -Germany	24-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302030
Deutz -Germany	25-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302031
Deutz -Germany	24-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302032
Deutz -Germany	24-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302033
Deutz -Germany	25-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302034
Deutz -Germany	26-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302035
Deutz -Germany	27-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302036
Deutz -Germany	26-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302037
Deutz -Germany	26-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302038
Deutz -Germany	26-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302039
Deutz -Germany	25-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302041
Deutz -Germany	28-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302042
Deutz -Germany	26-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302043
Deutz -Germany	25-Jul-06	2009 Series	BCJD12PSPSA	Deutz 2009L3.	9302044

ATTACHMENT I: Table 3 Administrative Settlement Agreement MSEB AED #7126

Attachment 88

Entry # G43-0069083-6

Entry Date: Sept. 18

Engine Manufacturer	Date of Manufacture	Generator Model	Generator Model #	Engine Model #	Engine Serial #
John Deere (JD)				John Deere	
) Saran, France	30-May-06	PowerTech 6.8 L	BCJD130SSA	6068TF258	CD6068C013444
) Saran, France	31-May-06	PowerTech 6.8 L	BCJD130SSA	6068TF258	CD6068C013445
) Saran, France	11-Jul-06	PowerTech 6.8 L	BCJD165SSA	6068TF158	CD6068C014487
) Saran, France	2-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158	CD3029C013601
) Saran, France	2-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158	CD3029C013602
) Saran, France	12-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158	CD3029C013818
) Saran, France	12-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158	CD3029C013819
) Saran, France	12-Jun-06	PowerTech 2.9 L	BCJD40SSPSA	3029TF158	CD3029C013820