

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

In the Matter of:)	
)	
Yanmar America Corporation,)	
)	
CNH America LLC,)	ADMINISTRATIVE
)	SETTLEMENT AGREEMENT
)	
Kobelco Construction Machinery America LLC,)	
)	AED/MSEB - 7234
)	
Deere and Company,)	
)	
Komatsu America Corporation)	
)	
and)	
)	
Volvo Construction Equipment North America,)	
)	
Respondents.)	
)	

This Administrative Settlement Agreement is made and entered into by and between the United States Environmental Protection Agency (EPA), Yanmar America Corporation, 951 Corporate Grove Drive, Buffalo Grove, IL 60089, as the subsidiary of Yanmar Co. Ltd., and other Yanmar affiliates (collectively referred to as “Yanmar,” “Certificate Holder” or “Manufacturer”), CNH America LLC (CNH), 700 State Street, Racine, WI 53404, Kobelco Construction Machinery America LLC (“Kobelco”), 501 Richardson Road, Calhoun, Georgia 30701, Deere and Company, One John Deere Place, Moline, Illinois, 61265 (“Deere”), Komatsu America Corporation, One Continental Towers, 1701 W. Golf Road, Rolling Meadows, Illinois 60008 (“Komatsu”), and Volvo Construction Equipment North America, Inc., One Volvo Drive, Asheville, N.C. 28803 (“Volvo”) (collectively, “Respondents”).

Purpose:

1. The purpose of this Administrative Settlement Agreement (Agreement) is to resolve alleged violations of Sections 203(a) and 213(d) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a), and 7547(d), and the implementing compression-ignition (CI) nonroad engine regulations, 40 C.F.R. Part 89 (CI Nonroad Engine Regulations).

Statutory Authority:

2. Sections 203(a) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a), and 7547(d), prohibit any person from causing the importation or importing any new nonroad vehicle or engine unless such vehicle or engine is covered by a certificate of conformity issued and in effect, and bears the required EPA Emissions Information Label (label).

Regulatory Authority - CI Nonroad Engine Regulations:

3. 40 C.F.R. § 89.1003(a)(1)(ii) prohibits any person from causing the importation or importing into the United States any CI engine manufactured after the effective dates of the regulations, unless such engine is covered by a certificate of conformity issued by EPA.
4. 40 C.F.R. § 89.1003(a)(4)(ii) prohibits the sale, offer for sale, introduction, delivery into commerce, or the causing thereof by an engine manufacturer of a nonroad CI engine manufactured after the effective dates of the regulations, unless a label or tag is affixed to the engine in accordance with 40 C.F.R. § 89.110.
5. 40 C.F.R. § 89.2 defines an engine manufacturer as any person engaged in the manufacturing or assembling of a new nonroad engines or importing such engines for resale, or who acts for and is under the control of any such person in connection with the distribution of such engines.

6. 40 C.F.R. § 89.110 requires the original engine manufacturer to affix, at the time of manufacture of a certified CI engine, a permanent and legible label identifying each nonroad engine and containing certain information. The label must readily be visible after the engine is installed in the equipment.
7. 40 C.F.R. §§ 89.110(a)(1), (2), and (5) require the label to be attached in such a manner that it cannot be removed without destroying or defacing the label; be durable and readable for the entire engine life; and be located so as to be readily visible to the average person after the engine is installed in the equipment.

Definitions:

8. For the purposes of this Agreement, the following definitions apply:
 - a. *Applicable regulation and dates:* 40 C.F.R. Part 89 is applicable to CI nonroad engines built after the applicability dates.
 - b. *Certified Engine:* A nonroad engine built after the applicable dates of the regulations and that is covered by a Certificate of Conformity.
 - c. *Certificate Holder:* The manufacturer who obtained from EPA a Certificate of Conformity.
 - d. *Certificate of Conformity:* The document issued by EPA to a manufacturer under 40 C.F.R. § 89.105 after EPA determines that the manufacturer's application is complete and that the engine family meets the requirements of 40 C.F.R. Part 89 and the CAA.
 - e. *Export:* To transport to a location outside of the United States and its territories, Canada, and Mexico.

- f. *Observer:* A U.S. Customs and Border Protection (U.S. Customs) representative or an independent board certified licensed professional engineer.
- g. *Subject engines:* The CI nonroad engines identified in Appendix A to this Agreement.
- h. *This matter:* As used in this Agreement means Respondents's importation of the nonroad engines as described in Paragraphs 16-18 of this Agreement (Subject Engines), the injunctive relief/corrective action, root cause analysis and compliance plan and civil liability that may apply to such violations.
- i. *EPA-Label requirements:* The permanency, durability, readability, visibility, and information requirements for labels specified in Section 203(a)(4) the Clean Air Act, 42 U.S.C. § 7522(a)(4) and 40 C.F.R § 89.110.

Background:

- 9. Yanmar has not had any prior citations or violations from EPA. Yanmar acted promptly and proactively to resolve this matter upon being advised of the issues.
- 10. On April 2, 2007, Yanmar received a Notice of Detention from U.S. Customs and Border Protection (Customs) at the Port of Miami, concerning 15 (fifteen) engines. On April 18, 2007, Yanmar received a Notice of Seizure regarding those engines. On May 7, 2007, Yanmar received a written notice from Customs in Miami, dated April 20, 2007, that outlined the basis for the detention of the 15 engines
- 11. Upon receiving written notice from Customs on May 7, 2007, Yanmar contacted EPA and initiated an internal review of known and potential issues related to the seizures.

12. The Customs inspection of the 15 engines indicated that they bore Emissions Information Labels that could be removed without destroying or defacing the label, in violation of 40 C.F.R. § 89.110(a)(1).
13. Yanmar implemented an interim solution on all labels manufactured between approximately May 10 and May 17, by scoring the labels in such a manner that destroyed or defaced the label upon attempts to remove it. Yanmar advised EPA of this action by letter dated May 18, 2007, and submitted samples of the scored labels on or about that date. Yanmar's May 18, letter also disclosed additional import shipments that had or may have similar compliance issues upon arrival at U.S. ports, and described measures taken to correct or remediate the violations or potential violations.
14. Effective on or about May 17, 2007, Yanmar began applying a new label to all engines at the point of manufacture. These new labels displayed the word "void" on both the engine and the label if removed. Yanmar advised EPA of this action, and submitted samples of the new "void" label.
15. The following Table summarizes the general status and number of engines referred to in the preceding paragraphs, in three distinct categories: (1) engines bearing Yanmar "old" labels that are still in transit, pending entry to the U.S., or have been detained or seized by U.S. Customs; (2) engines bearing "scored" labels, created between approximately May 10 and May 17, 2007 that are still in transit, pending entry to the U.S., or have been detained or seized by U.S. Customs; and (3) all engines manufactured on or after May 17, 2007, bearing new "void" Yanmar labels. Specific engine identification information for Category 1 (the "Subject Engines") and Category 2 is set forth in Appendix A and Appendix B, respectively, to this Agreement.

**YANMAR Manufactured Engines
Summary Overview**

CATEGORY 1: ENGINES BEARING 'OLD' LABELS (IN TRANSIT, PENDING ENTRY, DETAINED OR SEIZED BY CUSTOMS – LISTED IN APPENDIX A)

<u>PORT(S)</u>	<u>IMPORTER</u>	<u>QUANTITY</u>
Miami	Yanmar	18
Savannah	Deere	736
Baltimore, Long Beach, Savannah	Volvo	5
Baltimore, Los Angeles, Savannah, Tacoma	CNH/Kobelco	177
Savannah, Baltimore	Komatsu	32
TOTAL: 968		

CATEGORY 2: ENGINES BEARING 'SCORED' LABELS (IN TRANSIT, PENDING ENTRY, DETAINED OR SEIZED BY CUSTOMS – LISTED IN APPENDIX B)

-- Engine labels scored by Respondents between approximately May 10 and May 17, 2007 --

TOTAL: 3,894

**CATEGORY 3: ENGINES BEARING NEW ('VOID') LABELS
(EXAMPLE IN APPENDIX C)**

All Yanmar engines manufactured on or after May 17, 2007
(includes some engines still in transit to U.S. ports)

Alleged Violations:

16. As set forth in the schedule included as Appendix A(1) through A(5) to this Agreement (one list for each Respondent), Respondents manufactured and /or imported a combined total of 968 Subject Engines bearing Yanmar's 'old' emissions label. The Subject Engines were manufactured by Yanmar and Yanmar is the Certificate Holder for the Subject Engines.

17. The U.S. Customs inspection of a representative sample of the Subject Engines revealed that the engines bore Emissions Information Labels that were not permanently affixed and could be removed without destroying or defacing the label, in violation of 40 C.F.R. § 89.110(a)(1).
18. Based on the forgoing, EPA alleges that Respondents committed violations of Sections 203(a) and 213(d) of the CAA, 42 U.S.C. §§ 7522(a), and 7547(d) and the CI Nonroad Engine Regulations, 40 C.F.R. Part 89.
19. By entering into this Agreement, Respondents do not admit that they have committed any violation of the Clean Air Act or its implementing regulations.

Injunctive Relief/Corrective Action:

20. The Certificate Holder for the Subject Engines shall:
 - a. Remove each non-complying label from the Subject Engines and affix a complying EPA emissions information label to each of the Subject Engines (replacement label). A copy of the complying EPA emissions label is attached hereto as Appendix C to this Agreement.
 - b. Provide to EPA a technical description of the method and procedures that the Certificate Holder shall use to affix the replacement label to the Subject Engines to ensure that each replacement label is permanently affixed and cannot be removed without destroying or defacing the label.
 - c. Establish and fully document a chain of custody for the replacement labels from the time of production until the time of installation on the Subject Engines, and destruction of any unused replacement labels.

- d. Perform this corrective action under the direction of the Observer. The corrective action shall be completed no later than thirty (30) days from the effective date of this Agreement, or such longer period of time if requested by Respondents and approved by EPA for good cause shown.
 - e. Remove each non-complying label and give it to the Observer, and shall attach the replacement label in accordance with the method and procedures submitted to EPA in the above Subparagraph “(b)”.
 - f. Contact EPA for relabeling procedures in the event that a non-complying label on any Subject Engine is not accessible. The Certificate Holder shall identify the equipment and Subject Engine by Model and serial number, and provide such information (e.g., photographic evidence) as may be requested by EPA demonstrating engine label inaccessibility.
 - g. Ensure that the Observer destroys all the removed labels no later than the day the last Subject Engine receives a replacement label.
21. After the replacement label has been affixed to each of the Subject Engines, the Certificate Holder shall have the Observer randomly select one Subject Engine from each equipment model (the Test Sample Engines) to determine whether or not the replacement label is permanently affixed to the Subject Engine and cannot be removed without destroying or defacing the replacement label utilizing hand pressure only. Any Test Sample Engines whose replacement label is destroyed or defaced during this test must be relabeled by the Certificate Holder.

22. Where the replacement label on a Test Sample Engine can be removed without destroying or defacing the replacement label, the Test Sample Engine and the related equipment shall be exported.
23. Where the replacement label on a Test Sample Engine contains all the specified information, is permanently affixed and cannot be removed without destroying or defacing the label, the Test Sample Engine and the related equipment model Subject Engines may be deemed to comply with 40 C.F.R. § 89.110 and may be released by Customs.
24. The Certificate Holder shall ensure that the label on each engine listed in Appendix B is scored, perforated or otherwise breaks into pieces if removed (i.e., the label does not come off in a single piece).
25. No later than thirty (30) days from the effective date of this Agreement (or such longer period of time if requested by Respondents and approved by EPA for good cause shown), Respondents shall provide EPA with a written report that fully describes the corrective action taken, and certifies that such corrective action was conducted as described. Each Respondent shall cooperate with and provide all necessary information to the Certificate Holder for the report to EPA required by this Paragraph 25. The report must include the following:
 - a. An affidavit from the Certificate Holder who has performed the corrective action work. 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 re-labeled, provide a clear readable picture of the replacement label affixed to each model of the Subject Engines, and provide the

results of any tests performed to determine whether or not the replacement label was permanent and could not be removed without destroying or defacing the label; and

- b. An unconditional statement from the Certificate Holder certifying that the Subject Engines comply with all requirements of the Clean Air Act and 40 C.F.R. Part 89.

Root Cause Analysis, Corrective Action Compliance Plan and Compliance Certification:

26. *Root Cause Analysis, Corrective Action Compliance Plan:* No later than thirty (30) days from the effective date of this Agreement, the Certificate Holder shall initiate a thorough review and analysis (root cause analysis) of its non-road engine labeling practices and procedures at each facility where the Certificate Holder produces engines for importation into the United States. This root cause analysis is intended to ensure that all labels are permanently affixed on the Certificate Holder's engines and/or equipment at the time of manufacture and otherwise comply with the requirements of 40 C.F.R. § 89, in particular to ensure that labels once affixed cannot be removed without being destroyed or defaced at any point during the life of the engines, and during the manufacturing and assembly process (including during overseas shipment for assembly, and for importation into the United States). The Certificate Holder shall, as part of such review:

- a. Review the regulatory requirements for labels on non-road engines;
- b. Analyze a representative sample of the non-road engines and labels for importation to the United States to determine the potential cause(s) of label noncompliance;

- c. Review current labeling procedures and associated quality assurance and/or control practices, including label installation procedures, label design and label performance characteristics; and
- d. Identify and implement corrective action(s) to label installation procedure/design/performance as well as quality assurance/quality control procedures at locations where the Certificate Holder's non-road equipment is manufactured and/or assembled, for shipment to the United States, and at U.S. Ports as may be permitted by Customs to ensure that labels remain permanently affixed and attached such that they cannot be removed without their being defaced or destroyed.

The Certificate Holder shall complete the review and analysis required by this Paragraph 26, and shall implement all corrective actions, within 180 days of the effective date of this Agreement. The Certificate Holder shall, within 210 days of the effective date of this Agreement, submit a copy of the Corrective Action Plan, together with a report to EPA of the Root Cause Analysis and Corrective Action Plan detailing the analysis, cause(s) of noncompliance, and all corrective actions implemented by the Certificate Holder. Such report shall include example(s) of new or redesigned label(s) identified for use by the Certificate Holder as a result of the Root Cause Analysis and Corrective Action Plan.

27. *Compliance Certification:* For the two (2) years following the effective date of this Agreement, Yanmar, as the Certificate Holder, shall prepare and submit to EPA, at the address provided in Paragraph 29, a signed certification of compliance with EPA's CI Non-Road Regulation label requirements, as described in Paragraphs 6 and 7 of this

Agreement. This certification may be included with Certificate Holder's annual production summary submittal, and shall include the following:

- a. Number of CI Non-Road engines manufactured by the Certificate Holder that were imported to the U.S. in the preceding calendar year (the Imported Engines);
- b. Number of EPA compliant labels attached to the Imported Engines at the time of manufacture;
- c. A description of the type of label applied to the Imported Engines, and any changes made to the label or to the method of application, during the preceding calendar year;
- d. A description of the quality assurance/quality control procedures at locations where the Certificate Holder's non-road equipment is manufactured and/or assembled for shipment to the United States, including the name and position of the person(s) whose primary responsibility is to ensure that engine labels are properly affixed and to ensure that the quality assurance/quality controls are properly implemented;
- e. The name(s) and location(s) of the facility(s) where the Certificate Holder's non-road equipment is manufactured and/or assembled for shipment to the United States; and
- f. A statement signed by the responsible company official that all labels applied to the Imported Engines in the preceding calendar year were compliant with applicable EPA label requirements for CI Non-Road Engines.

Civil Penalty:

28. The Certificate Holder shall pay to the United States of America a civil penalty of \$250,000 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 35 of this Agreement. Respondents agree to pay the amount by certified check or cashier's check payable to the United States of America and mail to:

U.S. Environmental Protection Agency
Washington Accounting Operations
P.O. Box 371099M
Pittsburgh, Pennsylvania 15251
Attn: AED/MSEB – 7234

Alternatively, the Certificate Holder may affect an electronic funds transfer in the amount of \$250,000 with the notation “Yanmar America Corporation, CHN America LLC, and Kobelco Construction Machinery America LLC, Deere and Company and Volvo Construction Administrative Settlement Agreement for Case No.: AED/MSEB-7234” by using the following instructions:

Name of Beneficiary:	EPA
Number of Account for Deposit:	68010727
Bank Holding Account:	Treas_NYC
Routing Number:	021030004

The costs of such electronic funds transfer shall be the Certificate Holder's responsibility.

Notice:

29. All correspondence, reports, and copies of payment checks concerning this Agreement shall be sent to:

(Regular Mail)

Jocelyn Adair, Esq.
U.S. Environmental Protection Agency
Mail Code 2242A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
Attn: AED/MSEB-7234

(Courier Service)

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

General Provisions:

30. The effective date of this Agreement is the date that EPA executes the Agreement and provides a copy of the executed Agreement to Respondents.
31. Respondents hereby represent that the individual executing this Agreement on behalf of each Respondent is authorized to do so on behalf of each Respondent and that such execution is intended and is sufficient to bind Respondents, Respondents' agents, assigns, or successors.
32. Notwithstanding any other provisions of this Agreement, upon any Respondents' default or failure to comply with any terms of this Agreement that is applicable to that Respondent, 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. Respondents specifically agree 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 89. Respondents expressly waive Respondents' right to assert that such action is barred by any applicable statutes of limitation, *see, e.g.*, 28 U.S.C. § 2462.
33. This settlement is contingent upon the truthfulness, accuracy and completeness of Respondents' disclosure and representation to EPA, and the prompt and complete remediation of any violations in accordance with this agreement. Each Respondent shall

provide updated or corrected information on the number and/or status of any Subject Engines, to the extent such information varies from the information set forth in any of the Appendices to this Agreement. All such corrections shall be submitted promptly after discovery, but no later than the date of submittal of the report required by Paragraph 25 of this Agreement.

34. Respondents have asserted claims of business confidentiality pursuant to 40 C.F.R. Part 2 with respect to the engine lists included in Appendices A(1) through A(5) and Appendix B(1) through B(8) to this Agreement. Each Respondent's copy of this Agreement shall include their respective Appendix only. A copy of this Agreement and all Appendices shall be provided to Customs by EPA; each Respondent consents and agrees to such disclosure consistent with 40 C.F.R. § 2.209.

Stipulated Penalties:

35. For failure to comply with the terms of this Agreement on a timely basis Respondents shall pay stipulated penalties to the United States as follows:
- a. For failure to provide the reports or certifications specified in Paragraphs 26 and 27, \$250 per day; and,
 - b. For failure to pay the civil penalty or provide proof thereof, pursuant to Paragraph 28, \$250.00 per day.
36. All stipulated penalties under Paragraph 35 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 28 of this Agreement. In addition, a copy of the

transmittal letter(s) and check(s) shall be sent to the EPA representative at the address specified in Paragraph 29. All stipulated penalties shall be paid to the United States of America within 5 days of written demand by EPA. 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 Respondents' violation of this Agreement or of the statutes or regulations upon which the Agreement is based.

Enforcement:

37. 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 each 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 Respondents of responsibility to comply with other state, federal or local law or regulations, and does not address Respondents' potential liability to Customs for engines that are seized or detained.

The following agree to the terms of this Agreement:

**Administrative Settlement Agreement - In the Matter of Yanmar America Corporation,
CNH America LLC, Kobelco Construction Machinery America LLC, Deere and Company,
and Volvo Construction , AED/MSEB-7234**

Yanmar America Corporation:

By:  _____

Date: 27 JUN. 2007

Printed Name: KAZUTAKA TANI

Printed Title: TREASURER

**Administrative Settlement Agreement - In the Matter of Yanmar America Corporation,
CNH America LLC, Kobelco Construction Machinery America LLC, Deere and Company,
and Volvo Construction , AED/MSEB-7234**

CNH America LLC:

By: Michael P. Gring Date: June 27, 2007
Printed Name: Michael P. Gring
Printed Title: General Counsel - North America

**Administrative Settlement Agreement - In the Matter of Yanmar America Corporation,
CNH America LLC, Kobelco Construction Machinery America LLC, Deere and Company,
and Volvo Construction , AED/MSEB-7234**

**Kobelco Construction Machinery America
LLC:**

By: Michael P. Goering Date: June 27, 2007
Printed Name: Michael P. Goering
Printed Title: General Counsel - North America

**Administrative Settlement Agreement - In the Matter of Yanmar America Corporation,
CNH America LLC, Kobelco Construction Machinery America LLC, Deere and Company,
and Volvo Construction , AED/MSEB-7234**

Deere and Company:

By: Ty Leonard

Printed Name: Ty LEONARD

Printed Title: Supply Base Manager

Date: 6-28-2007

**Administrative Settlement Agreement - In the Matter of Yanmar America Corporation,
CNH America LLC, Kobelco Construction Machinery America LLC, Deere and Company,
and Volvo Construction , AED/MSEB-7234**

Komatsu America Corporation:

By: David D. Nardo

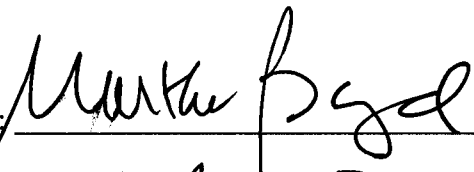
Date: June 27, 2007

Printed Name: DAVID D. NARDO

Printed Title: VICE PRESIDENT /
GENERAL COUNSEL

**Administrative Settlement Agreement - In the Matter of Yanmar America Corporation,
CNH America LLC, Kobelco Construction Machinery America LLC, Deere and Company,
and Volvo Construction , AED/MSEB-7234**

**Volvo Construction Equipment North
America:**

By: 

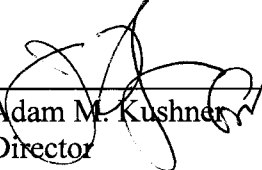
Date: 6/28/07

Printed Name: MARTHA BOYD

Printed Title: VICE PRESIDENT & GENERAL COUNSEL

**Administrative Settlement Agreement - In the Matter of Yanmar America Corporation,
AED/MSEB-7234**

U.S. Environmental Protection Agency

By:  _____ Date: JUNE 28, 2007 _____
Adam M. Kushner
Director
Air Enforcement Division

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

In the Matter of:)	
)	
Yanmar America Corporation, et al.)	ADMINISTRATIVE SETTLEMENT AGREEMENT
)	
Respondents.)	
)	
)	AED/MSEB - 7234

AMENDMENT

This Amendment to Administrative Settlement Agreement No. AED/MSEB-7234 (Amendment) is made and entered into by and between the United States Environmental Protection Agency (EPA) and Yanmar America Corporation, 951 Corporate Grove Drive, Buffalo Grove, IL 60089, as the subsidiary of Yanmar Co. Ltd., and other Yanmar affiliates (collectively referred to as Yanmar).

Purpose/Background:

1. EPA and Yanmar previously entered in Administrative Settlement Agreement No. AED/MSEB-7234 (ASA) to resolve alleged violations of Sections 203(a) and 213(d) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a), and 7547(d), and the implementing compression-ignition (CI) nonroad engine regulations, 40 C.F.R. Part 89 (CI Nonroad Engine Regulations).
2. In connection with the settlement and its effort to develop a comprehensive list of engines not yet imported to the United States that bear non-compliant labels (Subject Engines), Yanmar distributed bulletins to its customers stating that labels manufactured prior to May 17, 2007, were not EPA-compliant and requesting that they contact Yanmar for replacement labels.

3. The ASA contemplates updates or corrections to the lists of Subject Engines because of these unique circumstances surrounding the communication effort.
4. Yanmar just recently learned of nine units imported into the U.S. by Mase Generators North America that were built prior to May 17, 2007. These engines have been seized by U.S. Customs in Miami, Florida, U.S. Customs Seizure No. 20075201000680-01. An Appendix identifying these units is attached as Appendix A.6.
5. Yanmar intended for these units to be included in the original agreement, as that was the purpose of sending the bulletins to its customers.
6. EPA, Yanmar and Mase agree, through execution of this Amendment, to include the Mase units listed on attached Appendix A.6 as part of the Agreement.

Injunctive Relief/Corrective Action:

7. Yanmar agrees to re-label the engines pursuant to the requirements of ASA/MSEB-7234 in the MASE units identified in attached Appendix A.6 with the new “VOID” label that has previously been approved by EPA, and to include information concerning the re-labeling in its final Corrective Action Report to be submitted to EPA.
8. Yanmar agrees to re-distribute bulletins to its customers in hopes of avoiding a similar situation from occurring in the future.
9. Yanmar and Mase understand that any other engines entering U.S. ports subsequent to this Amendment that are discovered to have old, non-compliant labels will be addressed under the terms of a separate agreement.

The following agree to the terms of this Amendment:

Amendment to Administrative Settlement Agreement - In the Matter of Yanmar America Corporation, AED/MSEB-7234, In the Matter of Yanmar America Corporation, et al.

Yanmar America Corporation:

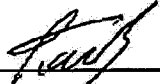
By:  Date: _____

Printed Name: AKITTIKO NAKITOKA

Printed Title: _____

Amendment to Administrative Settlement Agreement - In the Matter of Yanmar America Corporation, AED/MSEB-7234, In the Matter of Yanmar America Corporation, et al.

Mase Generators North America


By:  Date: 10/18/07

Printed Name: ANTONIO PLANTA

Printed Title: MANAGING DIRECTOR

**Amendment to Administrative Settlement Agreement-AED/MSEB-7234,
In the Matter of Yanmar America Corporation, et al.**

U.S. Environmental Protection Agency

By:  _____ Date: Oct 23, 2007
Adam M. Kushner
Director
Air Enforcement Division

Appendix A-6 : MASE Generators

	Engine Model	Engine Serial Number	Equipment Model	Equipment Serial Number
1	3TNV84T-GMG	31552	IS 15.6 S	G272181
2	3TNV82A-GMG	39488	IS 10.2 S	G272175
3	3TNV82A-GMG	39487	IS 10.2 S	G272176
4	3TNV88-GMG	38824	IS 14 S	G272177
5	3TNV88-GMG	38831	IS 14 S	G272178
6	3TNV76-GMG	33280	IS 8.1 S	G272132
7	3TNV76-GMG	33282	IS 8.1 S	G272133
8	4TNV88-GGE	15607	IS 19 S	G272179
9	4TNV88-GGE	52521	IS 19 S	G272180

Received data after original agreement
 Received data after original agreement
 Received data after original agreement
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Total Units: 9