

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter "Agreement") is entered into between the State of California Air Resources Board (hereinafter "CARB"), with its principal office at 1001 "I" Street, Sacramento, California; and American Honda Motor Co., Inc. (hereinafter "HONDA") with its principal place of business at 1919 Torrance Boulevard, Torrance, California (collectively, the "parties," or individually, "party").

RECITALS

1. The California Health and Safety Code mandates the reduction of air pollution emissions from off-road engines. (Health & Saf. Code §§ 43013; 43018.)
2. CARB adopted the "Evaporative Emission Requirements for Off-Road Equipment" Regulation (Cal. Code Regs., tit. 13, §§ 2750-2774) (Evaporative Emissions Regulation) to reduce emissions of oxides of nitrogen (NO_x) and hydrocarbons (HC) from off-road spark-ignited small off-road engines (SORE) rated at equal to or less than 19 kilowatts, and equipment utilizing such engines.
3. California Code of Regulations, title 13, section 2400, subsection (a)(2) provides, "Every new small off-road engine that is manufactured for sale, sold, or offered for sale in California, or that is introduced, delivered or imported into California for introduction into commerce, and that is subject to any of the standards prescribed in this article must be covered by an Executive Order, issued pursuant to this article."
4. California Code of Regulations, title 13, section 2751, subsection (a) prohibits the manufacture for sale or sale of engines "without an evaporative emission control system that has been certified and labeled" pursuant to the small off-road engine regulation requirements.
5. California Code of Regulations, title 13, section 2753, subsection (a) provides in pertinent part, "Small off-road engines or equipment that use small off-road engines subject to this Article must contain evaporative emission control systems. The evaporative emission control systems must be certified annually to the evaporative emission standards set out in sections 2754 through 2757 of this Article by the Air Resources Board."
6. California Code of Regulations, title 13, section 2752 provides, "'Evaporative Model Emission Limit (EMEL)' means the diurnal emission rate declared by the manufacturer for a model within an evaporative family. The declared rate must be based on diurnal emissions test results for the model of engine or equipment within the evaporative family that is expected to exhibit the highest diurnal emission rate relative to the applicable diurnal emission standard, obtained by following TP-902."

7. California Code of Regulations, title 13, section 2754.1, subsection (b)(5) provides in pertinent part, "A Holder shall certify an evaporative family to an EMEL...."
8. California Code of Regulations, title 13, section 2765, subsection (a)(8) provides, "An evaporative family will be deemed to have passed the compliance testing if the diurnal emissions from all tested engines or equipment units are below the applicable diurnal emission standard in section 2754 or 2757, or the EMEL, if applicable. If any engine or equipment unit has diurnal emissions above the applicable diurnal emission standard in section 2754 or 2757, or the EMEL, if applicable, the evaporative family will be deemed to have failed compliance testing."
9. CARB Executive Order U-U-001-0762 provides, "Production equipment shall be in all material respects the same as those for which certification is granted."
10. California Code of Regulations, title 13, section 2772 provides, in pertinent part, "In addition to suspension or revocation of an Executive Order of Certification as provided in this Article, the Executive Officer may seek civil or criminal penalties as provided for by law and/or such equitable relief deemed appropriate by the Executive Officer for any violation of these regulations."
11. Health and Safety Code section 43016 states, in pertinent part relating to small off-road engines, that "Violations involving portable fuel containers or small off-road engines shall be subject to a civil penalty not to exceed five hundred dollars (\$500) per unit."
12. On October 13, 2016, HONDA was sent an evaporative compliance test order by CARB's Monitoring and Laboratory Division (MLD) to determine if the evaporative family CMHNX12A installed on various HONDA SORE used on various lawn and garden equipment met diurnal standards.
13. In December 2016, CARB staff met with HONDA representatives at a distribution center in Corona, California and randomly selected five engines for diurnal emission testing as per Test Procedure TP-902.
14. CARB performed compliance testing of those five engines using CARB Test Procedure TP-902.
15. The Evaporative Model Emission Limit (EMEL) declared by HONDA for Evaporative Family CMHNX12A is 0.88 grams hydrocarbon per day (g/day). With a U-Factor of 0.97, the diurnal result after preconditioning must not exceed 0.88 g/day.
16. CARB Executive Order U-U-001-0762 states that "the evaporative family emission limit differential (EFELD), as applicable, is an emission level differential between the effective standard level for a specific model representing the entire evaporative family and the EMEL declared for the specific model...for use in the averaging and banking

program. It serves as the applicable evaporative emission standard for determining compliance on a corporate average basis of any equipment within this evaporative family under 13 CCR Sections 2754.1 (e)."

17. MLD's diurnal emission test concluded that the average diurnal emission rate of the five Honda engines selected for testing was 1.03 g/day, with the worst case being 1.13 g/day. This exceeded the EMEL set by HONDA, thereby violating the diurnal emission standards set forth in California Code of Regulations (CCR) title 13, section 2754.
18. HONDA met with CARB and identified the cause of the exceedance and the design changes necessary to remedy the exceedances. HONDA and CARB identified that a total of 90,544 CMHNX12A engines were subject to penalty. Honda also adjusted its evaporative credit bank by surrendering 58,668.6 credits banked by HONDA through 2016 as a result of its original declared EMEL of 0.88 g/day hydrocarbon.
19. CARB alleges that the sale, offer for sale in California, or introduction, delivery or importation into California for introduction into commerce sale, supply, offer for sale, advertisement, and/or manufacture for sale in California of the subject engines were unlawful and in violation of California Code of Regulations, title 13, section 2400, subdivision (a)(2), and section 2751(a).
20. HONDA subsequently submitted a running change to CARB to increase the EMEL from 0.88 to 1.53 g/day hydrocarbon, and reduced its credit bank by 99,177.5 credits to reflect the impact of this increase over the applicable time period.
21. HONDA promptly and fully cooperated with CARB in the investigation of this matter.
22. CARB alleges that if the facts described in recital paragraphs 1-18 were proven, civil penalties could be imposed against HONDA as provided in Health and Safety Code section 43016.
23. HONDA admits the facts as alleged in recital paragraphs 1-18, but denies any liability arising therefrom.
24. In consideration of the foregoing, and of the promises and facts set forth herein, the Parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed alleged violations and voluntarily agree to resolve this matter by means of this Settlement Agreement. In order to resolve the violations alleged herein, HONDA has taken, or agrees to take, the actions enumerated below within the Terms and Conditions. Further, CARB accepts this Settlement Agreement in termination and full settlement of this matter.

TERMS AND RELEASE

In consideration of CARB not filing a legal action against HONDA for the violations alleged above, and in consideration of the other terms set out below, CARB and HONDA agree as follows:

1. As a condition of this Settlement Agreement, HONDA shall pay the total sum of one million nine hundred twenty seven thousand eight hundred dollars (\$1,927,800), with nine hundred sixty three thousand nine hundred dollars (\$963,900.00) going to the California Air Pollution Control Fund and the other nine hundred sixty three thousand nine hundred dollars (\$963,900.00) going to Supplemental Environmental Projects (SEP) as detailed in paragraph 2, below. Payment to the California Air Pollution Control Fund shall be made within thirty (30) days of the Effective Date of this Settlement Agreement. Payment shall be made (with the Payment Transmittal Form attached as "ATTACHMENT A") by certified check in the amount of nine hundred sixty three thousand nine hundred dollars (\$963,900.00) payable to the **California Air Pollution Control Fund** and addressed to:

Air Resources Board
Accounting Office
P.O. Box 1436
Sacramento, California 95812-1436

2. As a further condition of this Agreement, HONDA has agreed to fund three Supplemental Environmental Projects (SEP) (ATTACHMENT B), which CARB has approved as mitigation for alleged past violations. Pursuant to this Agreement, HONDA shall, within thirty (30) days of the Effective Date:
 - a. Send a check in the amount of nine hundred sixty three thousand nine hundred dollars (\$963,900.00) payable to **IQAir Foundation** with the annotation "**Coachella Schools Flag Program, Oakland Unified School District Project 2019 - 2023, and Coachella Valley Mitigation Project Extension 2018-2023**" in the check's note or memo line to:

IQAir Foundation
ATTN: Nancy Dinella
14351 Firestone Blvd.
La Mirada, California 90638

- b. Send a copy of the payment check and Payment Transmittal Form (ATTACHMENT B) to CARB's Accounting Office listed above.
3. HONDA has agreed that by funding Coachella Schools Flag Program SEP, Oakland Unified School District Project 2019 - 2023 SEP, and Coachella Valley Mitigation Project Extension 2018-2023 SEP, HONDA will not receive any direct or indirect benefit, and that whenever it publicizes the SEPs or the results of the SEPs, it will state

in a prominent manner that the project is being undertaken as part of the settlement of an enforcement action.

4. Upon agreeing to the terms set forth in the SEP Agreements funding the Coachella Schools Flag Program SEP, Oakland Unified School District Project 2019 - 2023 SEP, and Coachella Valley Mitigation Project Extension 2018-2023 SEP, HONDA is released of all liabilities as they relate to the Coachella Schools Flag Program SEP, Oakland Unified School District Project 2019 - 2023 SEP and Coachella Valley Mitigation Project Extension 2018-2023 SEP as reflected in this underlying Settlement Agreement.
5. In the event the SEPs are not fully implemented in accordance with the terms of the SEP Agreements, CARB (as the third party beneficiary) shall be entitled to recover the full amount of the SEPs from the SEP implementers, less any amount expended based on the timely and successful completion of any previously agreed upon interim milestone(s), to be deposited into the California Air Pollution Control Fund. Accordingly, HONDA shall assign any and all rights against the SEP implementers to CARB.
6. Effect of Untimely Payment. If the penalty or SEP payment described in the Terms and Release paragraphs 1-2, respectively, is more than fifteen (15) days late, the entire remaining balance shall become immediately due and payable without notice or demand.
7. HONDA shall promptly email a PDF copy and then mail the original signed and dated Settlement Agreement, with copy of proof of payment, a copy of the signed and dated SEP Agreement(s), with copy of proof of payment, and a copy of the Payment Transmittal Form for each, to:

California Air Resources Board
Enforcement Division / Settlement Agreements
Enforcement/Engine and Parts
9480 Telstar Avenue, Suite 4
El Monte, California 91731
Enforcement_Settlements@arb.ca.gov
8. If the Attorney General files a civil action to enforce this settlement agreement, HONDA shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs.
9. This Agreement shall apply to and be binding upon HONDA and its principals, officers, directors, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and upon CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.

10. This Agreement constitutes the entire agreement and understanding between CARB and HONDA concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreements of any kind or nature, whether written or oral, between CARB and HONDA concerning these claims.
11. Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
12. No agreement to modify, amend, extend, supersede, terminate, or discharge this Agreement, or any portion thereof, shall be valid or enforceable unless it is in writing and signed by all parties to this Agreement.
13. Advice of Counsel. Each Party to this Agreement has reviewed the Agreement independently, has had the opportunity to consult counsel, is fully informed of the terms and effect of this Agreement, and has not relied in any way on any inducement, representation, or advice of any other Party in deciding to enter into this Agreement.
14. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice of law rules.
15. Severability. Each provision of this Agreement is severable, and in the event that any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement remains in full force and effect to the extent necessary to fulfill the Agreement's purpose and the intent of the Parties.
16. This Agreement is deemed to have been drafted equally by the Parties; it will not be interpreted for or against either Party on the ground that said Party drafted it.
17. Non-Waiver. The failure to enforce any provision of this Settlement Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Settlement Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Settlement Agreement or otherwise provided by law.
18. Intent to be Bound. The Parties represent that: They have participated fully in the review and drafting of this Settlement Agreement; understand and accept all terms; enter into this Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; are fully informed of the terms and effect of this Settlement Agreement; have agreed to this Settlement Agreement after independent investigation and agree it was not arrived at through fraud, duress, or undue influence; and knowingly and voluntarily intend to be legally bound by this Settlement Agreement.

19. Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
20. This Agreement may be signed in counterparts, and its validity shall not be challenged on that basis. True and correct copies of signed counterparts shall be deemed effective as originals for all purposes.
21. Now, therefore, in consideration of the payment by HONDA to the California Air Pollution Control Fund, the Coachella Schools Flag Program SEP, Oakland Unified School District Project 2019 - 2023 SEP, and Coachella Valley Mitigation Project Extension 2018-2023 SEP in the amounts specified above; and given the surrender of 58,668.6 credits received by HONDA as a result of its original declared EMEL of 0.88 g/day hydrocarbon, and the surrender of an additional 99,177.5 credits to reflect the difference between the regulatory emissions limit and the EMEL set by Honda after the compliance test results, CARB hereby releases HONDA and its principals, officers, directors, agents, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, and predecessors from any and all claims that CARB may have based on the facts and allegations described in recital paragraphs 1-18, above. The undersigned represent that they have the authority to enter this Agreement.

22. SB 1402 Statement

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010, Health and Safety Code section 39619.7) requires the CARB to provide information on the basis for the penalties it seeks. This required information, which is provided throughout this settlement agreement, is summarized here.

The manner in which the penalty amount was determined, including a per unit or per vehicle penalty.

Penalties must be set at levels sufficient to discourage violations. The penalties in this matter were determined in consideration of all relevant circumstances, including the eight factors specified in Health and Safety Code section 43024.

The maximum per unit penalty in this case is \$500 per unit per strict liability violation. The penalty obtained in this case is approximately \$21.29 per unit for 90,544 units. This reflects the facts that this was an unintentional, first time violation of this type and HONDA promptly and fully cooperated with the investigation.

The provision of law the penalty is being assessed under and why that provision is most appropriate for that violation.

CARB alleges that the penalty provision being applied in this case, Health and Safety Code section 43016, is appropriate because HONDA sold, supplied, offered for sale, advertised, and/or manufactured for sale in California small off-

road engines that did not meet the evaporative limits.

Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

As described above, the emissions from the engines sold by HONDA exceeded Honda's self-selected EMEL. However, given variability in use patterns associated with these engines, it is not practicable to quantify the excess emissions here.

23. HONDA acknowledges that CARB has complied with SB 1402 in prosecuting and settling this case. Specifically, CARB has considered all relevant facts, including those listed at Health and Safety Code section 43024, has explained the manner in which the penalty amount was calculated (including a per unit or per vehicle penalty, if appropriate), has identified the provision of law under which the penalty is being assessed, and has considered and determined that this penalty is not being assessed under a provision of law that prohibits the emission of pollutants at a specified level.
24. Penalties were determined based on the unique circumstances of this matter, considered together with the need to remove any economic benefit from noncompliance, the goal of deterring future violations and obtaining swift compliance, the consideration of past penalties in similar case negotiation, and the potential costs and risk associated with litigating these particular violations. The penalty reflects violations extending over a certain period of time, considered together with the complete circumstances of this case. Penalties in future cases might be smaller or larger on a per unit basis.

The penalty in this case was based in part on confidential business information provided by HONDA that is not retained by CARB in the ordinary course of business. The penalty in this case was also based on confidential settlement communications between CARB and HONDA that CARB does not retain in the ordinary course of business either. The penalty also reflects CARB's assessment of the relative strength of its case against HONDA, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that HONDA may have secured from its alleged actions.

California Air Resources Board

American Honda Motor Co., Inc.

By: _____ /S/

By: _____ /S/

Name: Richard W. Corey
Title: Executive Officer

Name: William Walton
Title: Vice-President, Honda Power
Equipment

Date: 4/17/2020

Date: 3/25/2020