

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the California Air Resources Board (CARB), with its principal location at 1001 I Street, Sacramento, California 95814; and American Honda Motor Co., Inc. (hereinafter "Honda"), with its principal location at 1919 Torrance Boulevard, Torrance, California, (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) Purpose. The California Health and Safety Code mandates the reduction of emission of air pollution from off-road engines. (Health & Saf. Code §§ 43013; 43018.)
- (2) Regulation. CARB adopted the "*Evaporative Emission Requirements for Off-Road Equipment*" Regulation (Cal. Code Regs., tit. 13, §§ 2750-2774) (Evaporative Emissions Regulation) and the "*Small Off-Road Engines*" Regulation (Cal. Code Regs., tit. 13, §§ 2400-2409) (SORE Regulation) to reduce emissions of oxides of nitrogen (NOx) 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) Regulatory Provisions. The Evaporative Emissions Regulation requires all SORE engines that are manufactured for sale or lease for use or operation in California; sold or leased for use or operation in California; or delivered or imported into California for introduction into commerce in California be equipped with an evaporative emissions control system that is certified according to the regulation requirements and procedures; meet the diurnal emission and design standards, fuel cap performance standards, and carbon canister size requirements; be properly tested following all required test procedures; be properly labeled; and meet all warranty requirements. (Cal. Code Regs., tit. 13, § 2750-2774).
- (4) Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to six hundred eight dollars (\$608.00 USD) for each strict liability violation of the Evaporative Emissions Regulation or for each noncompliant SORE engine, equipment, fuel line, fuel tank, carbon canister, or equipment. (Cal. Code Regs., tit.13, § 2772; Health & Saf. Code § 43016).

CASE BACKGROUND

- (5) Corporate Entity. At all relevant times, Honda was organized under the laws of California as a corporation and conducted business in the State of California.
- (6) Allegations. This settlement agreement resolves NOV case number C00626, issued on May 25, 2022, and fully encompasses all units sold under the Variance, including units for the Model Year (MY) 2020 HNXCM18A evaporative family that were sold and had a compliance testing failure. CARB alleges Honda violated the Evaporative

Emissions Regulations and SORE Regulations by manufacturing, selling, leasing, or offering for sale or lease, or delivering or importing in California for introduction into commerce, SORE engines for use in California that failed to comply with the Carbon Canister Working Capacity (WC) requirements of the Evaporative Emissions Regulations and SORE Regulations because of CARB's revocation of the related Variance (Cal. Code Regs., tit. 13 § 2753). This resulted in the Executive Orders (EOs) for MY 2020 and 2021 evaporative families HNXCC13A, HNXCC13B, HNXCC19A, HNXCC23A, HNXCCW2A, HNXCM21A, HNXCM22A, HNXCM15A, HNXCM18A, HNXCM27A, and HNXCM29A becoming invalid, which includes 88,538 violations as outlined in NOV C00626. As part of the Variance, Honda relinquished evaporative emissions credits so excess emissions produced by the evaporative families covered by the Variance were already fully mitigated. This action ensures that any excess emissions generated by these units are fully offset. CARB alleges that if the allegations described in paragraphs 1 through 6 were proven, civil penalties could be imposed against Honda for each and every small off-road engine unit involved in the violations and for each day.

- (7) Acknowledgment. Honda admits to the facts in paragraphs 1 through 6, but denies any liability resulting from said allegations.
- (8) Consideration. 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 only and voluntarily agree to resolve this matter by means of this Settlement Agreement. In order to resolve the violations described 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 CONDITIONS

In consideration of CARB not filing a legal action against Honda for the alleged violations referred to above in the Legal Background and Case Background, and Honda's agreement to complete all terms and conditions set forth below, CARB and Honda agree as follows:

- (9) Settlement Amount. Honda shall pay a civil penalty of five million six hundred ninety-four thousand four hundred fifty-two dollars and twenty-seven cents (\$5,694,452.27 USD) and agrees to fund four Supplemental Environmental Projects (SEPs) entitled:
 - a) New Voices Are Rising: Envisioning Resilience Hubs in the Community in the amount of forty-two thousand six hundred seventy-five dollars and fifty-two cents (\$42,675.52);

- b) Inland Empire Environmental Health and Education Connections in the amount of two million one hundred fourteen thousand four hundred eighty-four dollars and ninety cents (\$2,114,484.90);
- c) Asthma Impact Model for Stanislaus County in the amount of seventy-nine thousand seventy-seven dollars and thirty-one cents (\$79,077.31); and
- d) Side Street Projects – Woodworking Bus in the amount of thirty-seven thousand seven hundred thirty dollars (\$37,730.00);

totaling the amount of two million two hundred seventy-three thousand nine hundred sixty-seven dollars and seventy-three cents (\$2,273,967.73 USD), consistent with CARB's SEP Policy, for a total settlement of seven million nine hundred sixty-eight thousand four hundred twenty dollars and zero cents (\$7,968,420.00 USD). Honda shall make all payments within thirty (30) calendar days from the date CARB notifies Honda of the full execution of the Settlement Agreement.

- (10) Civil Penalty Payment Method(s). Honda shall pay the civil penalty by check, credit card, wire transfer, or portal, payable to the "California Air Resources Board," using instructions provided separately by CARB in a Payment Transmittal Form. Honda is responsible for all payment processing fees. Payments shall be accompanied by the Payment Transmittal Form to ensure proper application. At the time payment is made, Honda shall provide CARB with proof of payment and copy of the Payment Transmittal Form at the email Address listed in Paragraph 16 (Notices). CARB shall deposit the civil penalty amount into its Air Pollution Control Fund for the purpose of carrying out CARB's duties and functions to ensure the integrity of its air pollution control programs. Should payment instructions change, CARB will provide notice to Honda in accordance with Paragraph 16 (Notices).
- (11) SEP Payment Method(s). Honda shall fund the SEPs listed in Paragraph 9 (Settlement Amount), by wire transfer (if available through the Administrators/Recipients), credit card, or check, payable to each SEP Administrator/Recipient, using instructions provided separately by CARB in SEP Payment Transmittal Forms. Honda is responsible for all payment processing fees. At the time payment is made, Honda shall provide CARB with proof of payment and a copy of each SEP Payment Transmittal Form at the email Address listed in Paragraph 16 (Notices). Payments shall be accompanied by the Payment Transmittal Forms to ensure proper application. Should payment instructions change, CARB will provide notice to Honda in accordance with Paragraph 16 (Notices).
- (12) Prohibition Against Financial Benefit. Honda has agreed that by funding the SEPs listed in Paragraph 9 (Settlement Amount), Honda will not receive any direct or indirect financial benefit, and that whenever Honda publicizes or refers to the SEPs

or the results of the SEPs, Honda will state that the SEPs are being undertaken as part of the settlement of a CARB enforcement action.

- (13) Assignment of Rights. In the event the SEP Administrators/Recipients do not fully implement or complete the SEPs in accordance with the terms of the SEP Agreements, CARB shall be entitled to recover the full amount of the SEPs from the SEP Administrators/Recipients, less any amount expended on the timely and successful completion of any previously agreed upon interim milestone(s). CARB will deposit any such recovery into its Air Pollution Control Fund. Accordingly, Honda assigns any and all rights against the SEP Administrators/Recipients to CARB.
- (14) Other Relief. For purposes of Honda's ongoing California and federal compliance obligations related to service parts, warranty, and safety for the affected units covered by this settlement agreement, CARB shall treat the affected units as if valid EOs for the affected units remain in place; CARB's Emissions Certification and Compliance Division therefore shall continue to process applications for field fixes for such service parts to determine compliance with the relevant SORE Regulations (Cal. Code Regs., tit.13, §§ 2400, et seq.; Cal. Code Regs., tit.13, §§ 2750, et seq.).
- (15) Documents. Honda shall promptly email or mail the signed and dated Settlement Agreement to the address or email in Paragraph 16 (Notices). Alternatively, Honda may email the signed and dated Settlement Agreement directly to the CARB Enforcement Investigator managing the settlement.
- (16) Notices. Unless otherwise specified in this Settlement Agreement, whenever notifications, submissions, or communications are required by this Settlement Agreement, they shall be submitted in writing to the address or email below:

As to CARB:

California Air Resources Board
Enforcement Division / Settlement Agreements
Engine and Parts Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov ([Send proof of payment](#))

As to Honda:

American Honda Motor Co., Inc.
Product Regulatory Office
1919 Torrance Boulevard, MS 500-2-10A
Torrance, California 90501-2746
Attn: Vice President

With copies to:

American Honda Motor Co., Inc.
Law & IP Unit
1919 Torrance Boulevard, MS 300-2-1D
Torrance, California 90501-2746
Attn: Associate General Counsel
jack_alden@na.honda.com

Britt Fleming
Van Ness Feldman LLC
1050 Thomas Jefferson Street, NW
7th Floor
Washington, D.C. 20007
bsf@vnf.com

Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

- (17) Recovery of Costs. The California Attorney General may file a civil action if Honda fails to comply with any of the terms and conditions of this Settlement Agreement. If the Attorney General files a civil action to enforce this Settlement Agreement, in addition to the civil penalties noted herein, Honda shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs.
- (18) Repeat Violations. Honda agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.
- (19) Entirety. This Settlement Agreement constitutes the entire agreement and understanding between the Parties concerning the Case Background, and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning the Case Background hereof. This Settlement Agreement consists of 9 pages and 37 paragraphs.
- (20) Binding Effect. This Settlement Agreement binds Honda, and any principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations and CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Settlement Agreement.
- (21) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.

- (22) Modification and Termination. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Settlement Agreement.
- (23) Severability. Each provision of this Settlement Agreement is severable, and in the event that any provision of this Settlement Agreement is held to be illegal, invalid, or unenforceable in any jurisdiction, the remainder of this Settlement Agreement remains in full force and effect.
- (24) Choice of Law. This Settlement 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.
- (25) Non-Discharge. It is further agreed that the penalties described in this Settlement Agreement are non-dischargeable under United States Code, title 11, section 523(a)(7), which provides an exception from discharge for any debt to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit.
- (26) Rules of Construction. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Settlement Agreement.
- (27) 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.
- (28) 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.
- (29) Venue. The Parties agree that the Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
- (30) Counterparts and Electronic Signatures. This Settlement Agreement may be

executed in counterparts. Electronic, facsimile, or photocopied signatures shall be considered as valid signatures.

- (31) Release. In consideration of the Honda's full completion of civil penalty and SEP payment(s), and all other undertakings above, CARB hereby releases Honda and its principals, officers, receivers, trustees, successors and assignees, subsidiary, and parent corporations, from any claims CARB may have based on the circumstances described in Paragraph 6 (allegations) above.
- (32) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (33) Per Unit Penalty. Under Health and Safety Code section 43016, the maximum per unit penalty, adjusted for inflation, for violations of the Evaporative Emissions Regulation and SORE Regulation is six hundred eight dollars (\$608.00). (Cal. Code Regs., tit.13, § 2772; Health & Saf. Code § 43016.) The penalty of \$7,968,420.00 over an unspecified number of days of violation is for 88,538 noncompliant SORE engines due to the EO associated with these engines becoming invalid following the revocation of the related Variance. The per unit penalty in this case is approximately \$90.00 per noncompliant engine.
- (34) Emissions. The provisions cited in Paragraph 6 (Allegations) do impose restrictions on emissions, prohibiting levels above specified thresholds. Although it is not practicable to quantify the excess emission for all evaporative families under the Variance without information on usage and emission rates, CARB has alleged that the equipment powered by SORE engines failed to meet regulatory requirements. Consequently, all emissions from these units are considered noncompliant. Honda took steps to mitigate all excess emissions by relinquishing evaporative emissions credits, ensuring that any excess emissions generated by these units were fully offset.
- (35) Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors as described in CARB's Enforcement Policy. CARB considered whether the violator came into compliance quickly and cooperated with the investigation; the extent of harm to public health, safety and welfare; nature and persistence of the violation, including the magnitude of the excess emissions; compliance history; preventative efforts taken; innovative nature and the magnitude of the effort required to comply, and the accuracy, reproducibility, and repeatability of the available test methods; efforts to attain, or provide for, compliance prior to violation; action taken to mitigate the violation; financial burden to the violator; and voluntary disclosure. The penalties are set at levels sufficient to deter violations, to remove any economic benefit or unfair advantage from noncompliance, to obtain swift compliance, and the potential costs, risks, and uncertainty associated with

litigation. Penalties in future cases might be smaller or larger depending on the unique circumstances of the case.

- (36) Confidential Business Information. CARB may have based this penalty in part on confidential business information provided by Honda or confidential settlement communications.
- (37) Effect of Settlement/Reservation of Rights. The following shall apply:
- a) This Settlement Agreement resolves the civil claims of CARB for the violations alleged in this Settlement Agreement.
 - b) CARB reserves, and this Settlement Agreement is without prejudice to, all claims, rights, and remedies against Honda with respect to all matters not expressly resolved in this Settlement Agreement. Notwithstanding any other provision of the Settlement Agreement, CARB reserves all claims, rights, and remedies, whether in law or equity, against Honda with respect to:
 - (i) Noncompliance with or enforcement of any provision of this Settlement Agreement.
 - (ii) Facts that were not disclosed by Honda to CARB.
 - (iii) Violation of the California Health and Safety Code and its implementing regulations, or other State laws, regulations, or permit condition(s) not expressly resolved in this Settlement Agreement.
 - (iv) Any imminent and substantial endangerment to the public health, welfare, or the environment in California, whether related to the violations addressed in this Settlement Agreement or otherwise.
 - (v) Any criminal liability.
 - (vi) Any claim(s) of any officer or agency of the United States or California, other than CARB.
 - c) In any subsequent administrative or judicial proceeding initiated by CARB for injunctive relief, civil penalties, or other appropriate relief relating to enforcement of the Settlement Agreement, Honda shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by CARB in the subsequent proceeding were or should have been brought in the instant case.
 - d) This Settlement Agreement does not limit or affect the rights of Honda or of CARB against any third parties not covered by this Settlement Agreement,

nor does it limit the rights of third parties not covered by this Settlement Agreement against Honda, except as otherwise provided by law. This Settlement Agreement shall not be construed to create rights in, or grant any cause of action to, any third party not covered by this Settlement Agreement.

- e) This Settlement Agreement is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Honda is responsible for achieving and maintaining compliance with all applicable federal, State, and local laws, regulations, and permits; Honda's compliance with this Settlement Agreement shall not be a defense to any action commenced pursuant to any such laws, regulations, or permits. CARB does not, by its execution of this Settlement Agreement, warrant or aver in any manner that Honda's compliance with any aspect of this Settlement Agreement will result in compliance with any provisions of federal, State, or local laws, regulations, or permits.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Steven S. Cliff, Ph.D.

Title: Executive Officer

Date: August 25, 2023

American Honda Motor Co., Inc.

Signature: /S/

Name: Henry J. Real Jr.

Title: Vice President, Power Sports & Products

Date: August 2, 2023