

SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (hereinafter "Agreement") is entered into by and between the STATE OF CALIFORNIA AIR RESOURCES BOARD (hereinafter "ARB"), with its principal office at 1001 I Street, Sacramento, California 95814 and Nissan North America Inc. (hereinafter "Nissan") with its principal place of business at One Nissan Way, Franklin, Tennessee 37067.

RECITALS

1. California Vehicle Code (VC) section 24007(a)(1) provides, in pertinent part, that "No dealer or person holding a retail setter's permit shall sell a new or used vehicle which is not in compliance with this code and departmental regulations adopted pursuant to this code, unless the vehicle is sold to another dealer, sold for the purpose of being legally wrecked or dismantled, or sold exclusively for off-highway use."
2. California Health and Safety Code (HSC) section 43151(a) states, "No person who is a resident of, or operates an established place of business within, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been certified pursuant to this chapter. No person shall attempt or assist in any such action."
3. Health and Safety Code section 43152 states, "No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver, purchase, receive, or otherwise acquire a new motor vehicle, a new motor vehicle engine, or vehicle with a new motor vehicle engine which is intended for use primarily in this state, for sale or resale to an ultimate purchaser who is a resident of or doing business in this state, or for registration, leasing, or rental in this state, which has not been certified pursuant to this chapter. No person shall attempt or assist in any such act."
4. Health and Safety Code section 43153 states "No person who is engaged in this state in the business of selling to an ultimate purchaser, or renting or leasing new motor vehicles or new motor vehicle engines, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently sell or offer to sell, to an ultimate purchaser who is a resident of or doing business in this state, or lease or offer to lease, rent, or offer to rent, in this state any new motor vehicle, new motor vehicle engine, or vehicle with a new motor vehicle engine, which is intended primarily for use or for registration in this state, and which has not been certified pursuant to this chapter. No person shall attempt or assist in any such action."
5. Health and Safety Code section 43154(a) states, "Any person who violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per vehicle."

6. Nissan self -reported to ARB a logistics error that occurred on January 31, 2011 where 196 federally certified MY 2011 Nissan Quest vehicles were shipped to California.
7. Nissan took action to correct the error and issued a stop sale notice on February 1, 2011.
8. Nissan contacted ARB about the error on February 2, 2011.
9. In total 127 vehicles were shipped to dealers throughout California. 3 vehicles were sold but subsequently bought back and replaced with California certified vehicles. All 127 vehicles were returned and removed from California.
10. Nissan took steps to prevent such an error from occurring again and on August 8, 2011 met with ARB to discuss and explain how the error had occurred as well as what systems were now in place to prevent the error from happening again.
11. Nissan has agreed to have 25% of the penalty amount go to a Supplemental Environmental Project (SEP) as specified below.

TERMS AND RELEASE

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

1. Nissan shall pay the sum of three hundred and eighty one thousand dollars (\$381,000.00) to the California Air Pollution Control Fund as a penalty. The full payment is due immediately and shall be payable to the California Air Pollution Control Fund and addressed to:

Tony Zeng, Air Resources Engineer
Air Resources Board
9528 Telstar Ave.
El Monte, CA 91731

2. Nissan shall pay the sum of one hundred and twenty seven thousand dollars (\$127,000.00) to fund a Supplemental Environmental Project known as the Environmental Education Account in the California EPA within thirty (30) working days of the execution of this Agreement. Payment shall be made by check payable to the "Environmental Education Account, Fund 8020" and addressed to:

Cathleen Chapin
Fiscal Officer
Air Resources Board
P.O. Box 2815
Sacramento, CA 95812-2815

3. It is agreed that if Nissan at any time becomes insolvent, or makes an assignment for the benefit of creditors or similar action adversely involving Nissan, or a proceeding or petition under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, or receivership law or statute is filed by or against Nissan, or a trustee in bankruptcy, custodian, receiver or agent is appointed or authorized to take charge of any of Nissan's properties, or if any deposit account or other property of Nissan be attempted to be obtained or held by writ of execution, garnishment, attachment, condemnation, levy, forfeiture or other legal process, or Nissan takes any action to authorize any of the foregoing, the entire remaining balance becomes immediately due and payable without notice or demand.
4. This Agreement shall apply to and be binding upon Nissan and its principals, officers, directors, agents, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations and predecessors and upon ARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Agreement.
5. Now, therefore, in consideration of the payment by Nissan to the California Air Pollution Control Fund in the amount specified above, ARB hereby releases Nissan and its principals, officers, directors, agents, receivers, trustees, employees, successors and assignees, subsidiary and parent corporations, predecessors, affiliates, customers, end-users, and suppliers from any and all claims that ARB may have based on the facts and allegations described in recital paragraph 10, above. The undersigned represent that they have the authority to enter this Agreement.
6. This Agreement constitutes the entire agreement and understanding between ARB and Nissan concerning the claims and settlement in this Agreement, and this Agreement fully supersedes and replaces any and all prior negotiations and agreement of any kind or nature, whether written or oral, between ARB and Nissan concerning these claims.
7. 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.
9. 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.
10. 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.
11. 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.

12. 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.
13. Waiver. The failure of any Party to enforce any provision of this 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 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 Agreement or otherwise provided by law.

(1) **SB 1402 Statement**

Senate Bill 1402 (Dutton, Chapter 413, statutes of 2010) requires the ARB to provide information on the basis for the penalties it seeks (see Health and Safety Code section 39619.7). This 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 per vehicle penalty in this case is a maximum of \$5000 per unit per strict liability violation. The penalty obtained in this case is approximately \$4,000 per vehicle for one hundred twenty seven vehicles for a total of \$508,000. The penalty was slightly reduced because the violator self-disclosed the violations and cooperated fully with the investigation.

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

The penalty provision being applied in this case is section 43154 because Nissan brought into commerce non-certified vehicles into California in violation of Health and Safety Code section 43151-43153 and Vehicle Code section 24007 described above.

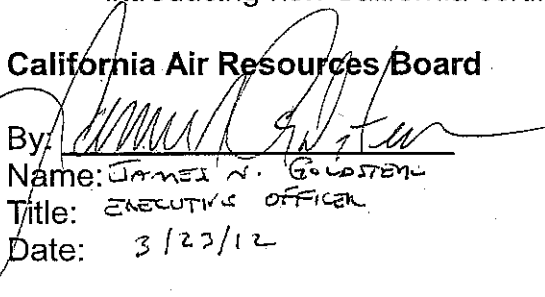
Is the penalty being assessed under a provision of law that prohibits the emission of pollution at a specified level, and, if so a quantification of excess emissions, if it is practicable to do so.

The provisions cited above do not prohibit emissions above a specified level. However, since the vehicles were not certified for sale in California, emissions attributable to them are illegal. It is not practicable to quantify these emissions,

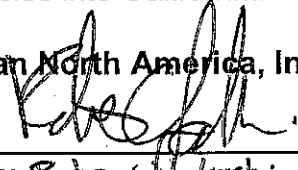
because the information necessary to do so, such as emission rates and time of use, is not available.

- (2) Nissan acknowledges that ARB has complied with SB 1402 in prosecuting and settling this case. Specifically, ARB has considered all relevant facts, including those listed at HSC section 43024, has explained the manner in which the penalty amount was calculated, 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.
- (3) 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 cases, and the potential costs and risk associated with litigating these particular violations. Penalties in future cases might be smaller or larger on a per unit basis.
- (4) The penalty was also based on confidential business information provided by Nissan that is not retained by ARB in the ordinary course of business. The penalty was also based on confidential settlement communications between ARB and Nissan that ARB does not retain in the ordinary course of business either. The penalty is the product of an arms length negotiation between ARB and Nissan and reflects ARB's assessment of the relative strength of its case against Nissan, the desire to avoid the uncertainty, burden and expense of litigation, obtain swift compliance with the law and remove any unfair advantage that Nissan may have secured from its actions.
- (5) Nissan represents that it understands the legal requirements applicable to introducing non-California certified vehicles into California.

California Air Resources Board

By: 
Name: JAMES N. GOLDSTEIN
Title: EXECUTIVE OFFICER
Date: 3/27/12

Nissan North America, Inc.

By: 
Name: Robert Takushi
Title: Director Product Safety Environmental
Date: 2/27/12