

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) Regulations. 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) Evaporative Emissions Regulatory Provisions. The Evaporative Emissions Regulation requires all SORE engines that are manufactured for sale or lease for use or operation in California; sold, 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 certification requirements and procedures (Cal. Code Regs., tit. 13, §§ 2751, 2753); meet the diurnal emission and design standards (Cal. Code Regs., tit. 13, §§ 2752, 2754, 2754.1, 2765), fuel cap performance standards (Cal. Code Regs., tit. 13, §§ 2756), and carbon canister size requirements (Cal. Code Regs., tit. 13, §§ 2754.); be properly tested following all required certification and test procedures (Cal. Code Regs., tit. 13, §§ 2758); be properly labeled (Cal. Code Regs., tit. 13, § 2759); and meet all warranty requirements. (Cal. Code Regs., tit. 13, § 2760, 2764.)
- (4) SORE Regulatory Provisions. The SORE Regulation requires all SORE engines that are manufactured for sale, sold, or offered for sale in California, or introduced, delivered, or imported into California for introduction into commerce: be covered by an Executive Order (Cal. Code Regs., tit. 13, § 2400(a)(2)) showing the engine meets the exhaust emission standards (Cal. Code Regs., tit. 13, § 2403); where required, meet the Air Index durability period (Cal. Code Regs., tit. 13, § 2400(l)); be properly tested following all required test procedures (Cal. Code Regs., tit. 13, § 2402); contain an emission control label (Cal. Code Regs., tit. 13, § 2404); meet

all defect warranty requirements (Cal. Code Regs., tit. 13, § 2405 and 2406); and comply with applicable reporting requirements. (Cal. Code Regs., tit. 13, § 2400-2409.)

- (5) Penalty Provisions. Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to five hundred forty-three dollars (\$543), when adjusted for inflation, per unit for each strict liability violation of the Evaporative Emissions Regulation or SORE Regulation, respectively, for each day in which the violation(s) occurs. (Cal. Code Regs., tit.13, §§ 2407, 2772; Health & Saf. Code § 43016.)

CASE BACKGROUND

- (6) 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.
- (7) Allegations. On February 25, 2020, CARB notified Honda of one GC160 engine from MY2019 CCHNX13A (13A) evaporative family and one GX390 engine from MY2019 CMHNX22A (22A) evaporative family demonstrating test results exceeding the Evaporative Model Emission Level (EMEL) limit per California Code of Regulations (CCR), Title 13, sections 2750-2774, resulting in excess hydrocarbons (HC). CARB requested Honda investigate and provide test results for five equipment units that document compliance of 13A and 22A evaporative families. On January 22, 2021, in response to CARB's request, Honda provided third-party test data indicating that engine families 13A and 22A exceeded the EMEL upper limit. The third-party test result for the engine family 13A was 2.34 grams/day HC (average) and for 22A, it was 2.49 grams/day HC (average), resulting in excess HC. Although the compliance testing on the engine family CMHNX21A (21A) had not begun yet, on January 22, 2021, Honda disclosed that 21A would also exceed the corresponding EMEL threshold listed on the CARB Executive Order (EO) based on engineering evaluation. CARB and Honda identified that a total of 149,136 engines for engine families 13A, 21A, and 22A were in violation. Due to Honda's evaporative emission compliance test failure, Honda will adjust its evaporative credit bank by surrendering 79,865 credits banked from engine families 21A and 22A. In addition to the evaporative compliance testing, Honda self-disclosed the following compliance issues:
 - a. On November 4, 2020, Honda self-disclosed that MY2020 HNXCCW1B failed to meet the EMEL resulting in 43 violations. These engines are specifically used for hover mower equipment. When Honda applied for and received an EO for engine family HNXCCW1B, it reported in its certification application a certification level of 1.64 grams per day violating CCR, title 13, section 2754(a). Per the regulatory requirement found in CCR, title 13, section 2754.1(b)(6), no walk-behind mowers within an evaporative family may have an EMEL greater than 1.5 times the applicable diurnal standard (1 gram/day), which for these engine families

should be less than 1.5 grams per day. Honda identified the cause of the exceedance and has established operation guidelines to remedy the exceedance.

- b. Subsequently, on December 11, 2020, Honda self-disclosed an incorrect emissions label for MY2019-MY2020 engine families KHNXS.3892BZ and LHNXS.3892BZ, resulting in 300 violations. For engines certified to emission standards subject to a durability period as set forth in CCR, title 13 section 2403(b) and for engines used to meet the requirements of CCR, title 13, section 2403(c), each engine manufacturer must make Air Index and durability period information available to end users per CCR, title 13, section 2404. Honda violated this provision when it changed the durability period from 1000 hours to 250 hours and mislabeled the incorrect Air Index descriptive term. This issue was corrected by Honda when it suspended delivery on November 27, 2020 and applied the correct label to all its engines listed above after November 28, 2020. Honda has taken corrective measures by improving current check and approval processes for any emission label when product specification/design changes occur.
- c. On March 10, 2021, Honda self-disclosed a running change for some engine models in engine family KHNXS.7802BA. A running change was applied to the engine at the factory before submitting a running change application for CARB's approval, resulting in 76 violations of CCR, title 13, section 2403.
- d. On April 9, 2021, Honda self-disclosed that several snow blowers, labeled as 49-state, entered the California market, in violation of CCR, title 13, sections 2400 and 2751. According to Honda's internal investigation, the total number of affected units was 89 units. Honda has implemented a voluntary recall plan that will replace engines in the affected models HSS928A and HSS1332A with a CARB certified engine. On October 5, 2021, Honda reported to CARB that although an emission recall notice was sent out to the affected customers in July 2021, Honda has not received any units for recall repairs.
- e. To address future compliance concerns, CARB asked Honda to develop and provide a comprehensive corporate compliance plan (Plan). In response to CARB's request, on July 16, 2021, Honda submitted its Plan to CARB. On July 22, 2021, CARB sent Honda questions on its Plan. On July 28, 2021, Honda presented its final Plan addressing CARB's questions. Honda has agreed to implement the measures as laid out in the Plan dated July 28, 2021.

- f. On September 8, 2021, it was brought to CARB's attention by Honda that prior certification applications for MY 2016 through 2019 engine families 12A, 21A and 22A were missing several fuel cap part numbers. After CARB inquired about potential emission impacts for the missing fuel caps, Honda investigated the potential emission impacts, providing a worst-case scenario justification. Since all fuel caps have canisters with the same evaporative emissions performance, Honda's engineering justification indicated no emissions impact for the missing fuel caps. Although the missing fuel caps showed no additional emission impact, Honda failed to follow the Small Off-Road Engine Evaporative Emission Control System Certification Procedures set forth in CP-902, which is incorporated into CCR, title 13, section 2753, resulting in a violation. Honda has taken corrective measures by improving its certification phase through a check and approval process as a prevention measure for any future applications.
- (8) This Settlement Agreement resolves Honda's MY19 CCHNX13A (13A) and CMHNX22A (22A) evaporative emission compliance test failure, CMHNX21A (21A) expected evaporative emission noncompliance, MY20 HNXCCW1B hover mower mistakenly certified above maximum emissions limit, MY19-MY20 KHNXA.3892BZ and LHNXS.3892BZ incorrect emissions label, MY19 KHNXS.7802BA running change, MY20 LHNXS.1961SA, LHNXS.2702SA, and LHNXS.3892SA 49-state snow blowers, and MY16-MY19 CMHNX12A, 21A, and 22A certification application documentation of multiple fuel cap parts. CARB alleges Honda violated the Evaporative Emissions Regulation and SORE Regulation by manufacturing for sale or lease for use or operation in California; selling or leasing or offering for sale or lease for use or operation in California; or delivering or importing into California for introduction into commerce in California SORE engines, for use in California that failed to comply with the requirements of the Evaporative Emissions Regulation and SORE Regulation by failing to obtain an Executive Order pursuant to the certification requirements (Cal. Code Regs., tit. 13, § 2753), failing to meet the diurnal emission standards (Cal. Code Regs., tit. 13, § 2754), failing to properly label the engines (Cal. Code Regs., tit. 13, § 2404), failing to follow certification procedures for running changes (Cal. Code Regs., tit. 13, § 2403), failing to follow Small Off-Road Engine Evaporative Emission Control System Certification Procedures (Cal. Code Regs., tit. 13, § 2753), resulting in 149,644 violations. Honda has adjusted its evaporative credit bank by surrendering 79,865 credits banked from engine families CMHNX21A, which was expected to fail the scheduled MY19 evaporative emission compliance test, and CMHNX22A, which did fail the MY19 evaporative emission compliance test. CARB alleges that if the allegations described in paragraphs 1 through 8 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.
- (9) Acknowledgment. Honda admits to the facts in paragraphs 1 through 8, but denies any liability resulting from said allegations. Honda acknowledges that, in response to CARB's email inquiry, dated August 23, 2021, it stated on August 24, 2021, that

it does not have any additional known failing test data that would show that the number, or the size of the violations is larger than was previously disclosed.

- (10) 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:

- (11) Settlement Amount. Honda shall pay a civil penalty of three million nine hundred forty three thousand seven hundred eighty five dollars and ninety four cents (\$3,943,785.94 USD) and agrees to fund the following Supplemental Environmental Projects (SEPs): Installation of Air Filtration Systems in Schools-Oakland, SEI Air Quality Education Program – Contra Costa; SEI Air Quality Education Program – San Diego; Installation of Air Filtration Systems in Oakland – Phase 2; and Saving the Lives of West Fresno Elementary School Students by replacing HVAC units, totaling the amount of three million fifty thousand seven hundred thirty two dollars (\$3,050,732.00 USD), consistent with CARB's SEP Policy, for a total settlement of six million nine hundred ninety four thousand five hundred seventeen dollars and ninety four cents (\$6,994,517.94 USD). Honda shall make all payments within 30 calendar days from the date CARB notifies Honda of the full execution of the Settlement Agreement.
- (12) Civil Penalty Payment Method(s). Honda shall pay the civil penalty by check, credit card, wire transfer, or portal, payable to "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. CARB shall deposit the civil penalty amount into the 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 19 (Notices).
- (13) SEP Payment Method(s). Honda shall fund the SEPs by wire transfer, credit card, or check, payable to the SEP Administrators: IQAir Foundation for Installation of Air Filtration Systems in Schools – Oakland; Strategic Energy Innovations for

SEI Air Quality Education Program – Contra Costa; Strategic Energy Innovations for SEI Air Quality Education Program – San Diego; IQAir Foundation for Installation of Air Filtration Systems in Oakland – Phase 2; and Washington Unified School District for Saving the Lives of West Fresno Elementary School Students by replacing HVAC units, using instructions provided separately by CARB in Payment Transmittal Forms. Honda is responsible for all payment processing fees. Payments shall be accompanied by the Payment Transmittal Form to ensure proper application. Should payment instructions change, CARB will provide notice to Honda in accordance with Paragraph 19 (Notices).

- (14) Prohibition Against Financial Benefit. Honda has agreed that by funding the SEPs entitled: Installation of Air Filtration Systems in Schools-Oakland, with IQAir Foundation; SEI Air Quality Education Program – Contra Costa, with Strategic Energy Innovations; SEI Air Quality Education Program – San Diego, with Strategic Energy Innovations; Installation of Air Filtration Systems in Oakland – Phase 2, with IQAir Foundation; and Saving the Lives of West Fresno Elementary School Students by replacing HVAC units, with Washington Unified School District, 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.
- (15) Assignment of Rights. In the event the SEP Recipient/Administrator does not fully implement or complete the SEP in accordance with the terms of the SEP Agreement, CARB shall be entitled to recover the full amount of the SEP from the SEP implementer, less any amount expended on the timely and successful completion of any previously agreed upon interim SEP milestone(s). CARB will deposit any such recovery into the Air Pollution Control Fund. Accordingly, Honda assigns any and all rights against the SEP implementer to CARB.
- (16) Corporate Compliance Plan. To ensure that Honda complies with all provisions of the laws and regulations outlined in the Legal Background section, above, the provisions of which are incorporated by reference, Honda shall, upon CARB's notification of full execution of this Settlement Agreement, adhere to all compliance measures in its Corporate Compliance Plan that it presented to CARB on July 28, 2021. If Honda wants to alter its Corporate Compliance Plan, it shall notify CARB 30 calendar days prior to implementation of any alterations.
- (17) Other Relief. Honda shall forfeit 79,865 credits banked from engine families CMHNX21A and CMHNX22A as a result of its MY19 evaporative emission compliance test failure. Honda will submit within 30 calendar days from the date CARB notifies Honda of the full execution of the Settlement Agreement a revised final Averaging, Banking, and Trading credit balance sheet which will include a line item forfeiting credits per reasons of the settlement and an attached copy of the Settlement Agreement.

- (18) Documents. Honda shall promptly email or mail the signed and dated Settlement Agreement, and within 30 calendar days from the date CARB notifies Honda of the full execution of the Settlement Agreement, provide a copy of proof of payment of the penalty, and/or SEP (if applicable), a copy of the Payment Transmittal Form(s) (if applicable), and the signed and dated Corporate Compliance Plan (if applicable) to the address or email in Paragraph 19 (Notices).
- (19) 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

As to Honda:

American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance, California 90501-2746

With copies to:

General Counsel

American Honda Motor Co., Inc.
1919 Torrance Boulevard
Torrance California 90501-2746

Britt Fleming

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

Allison McAdam

Van Ness Feldman LLC
3717 Mt. Diablo Boulevard
Suite 200
Lafayette, California 94549
amcadam@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.

- (20) 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.
- (21) Repeat Violations. Honda agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.
- (22) 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 11 pages and 40 paragraphs.
- (23) 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.
- (24) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
- (25) 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.
- (26) 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.
- (27) 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.
- (28) 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.

- (29) Not Tax Deductible. For purposes of this Settlement Agreement, Honda shall not deduct any monies spent to comply with any provision of this Settlement Agreement in calculating and submitting its federal, state, or local income tax.
- (30) 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.
- (31) 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.
- (32) 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.
- (33) 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.
- (34) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile, or photocopied signatures shall be considered as valid signatures.
- (35) Release. In consideration of the Honda's full completion of civil penalty and SEP payment(s) and compliance with the Corporate Compliance Plan condition, and agreement to all other Terms and Conditions herein, 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 all paragraphs contained in the Case Background above.

- (36) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (37) 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 five hundred forty-three dollars (\$543). (Cal. Code Regs., tit.13, § 2772; Health & Saf. Code § 43016.) The penalty of \$6,994,517.94 over an unspecified number of days of violation is for 149,644 noncompliant SORE engines; 43 noncompliant hover mowers; 300 emission label violations; 76 procedural violations of running change submittals; and 89 uncertified snow blowers sold into California. The per unit penalty in this case is approximately \$46 per noncompliant engine.
- (38) Emissions. The provisions cited above in the Legal Background do prohibit emissions above a specified level. CARB quantified the excess emissions with information on usage and emission rates for the evaporative families that had evaporative emission compliance test failures (MY19 CCHNX13A and CMHNX22A). Therefore, since these evaporative families do not meet the regulatory requirements, all of the emissions from them are excess and illegal.
- (39) 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.
- (40) Confidential Business Information. CARB based this penalty in part on confidential business information provided by Honda and confidential settlement communications, neither of which are retained by CARB in the ordinary course of business.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Richard W. Corey

Title: Executive Officer

Date: 12/1/2021

American Honda Motor Co., Inc.

Signature: /S/

Name: Christopher M. Young

Title: Senior Manager & Division Head, Power Equipment Sales

Date: 11/19/2021